

State of Florida



# Public Service Commission

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TALLAHASSEE, FLORIDA 32399-0850

**-M-E-M-O-R-A-N-D-U-M-**

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**DATE:** October 8, 2009  
**TO:** Ann Cole, Commission Clerk - PSC, Office of Commission Clerk  
**FROM:** Mary Anne Helton, Acting General Counsel *MAH*  
**RE:** Dockets Nos. 080677-EI and 090079-EI

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Attached is an e-mail dated October 8, 2009, from me to all parties of record in Docket No. 080677-EI - Petition for increase in rates by Florida Power & Light Company, and Docket No. 090079-EI - Petition for increase in rates by Progress Energy Florida, Inc.

Please include my e-mail to all parties of record as a document-numbered filing in both of the dockets.

Thank you.

MAH:csc  
Attachment

RECEIVED--FPSC  
09 OCT - 8 PM 3:40  
COMMISSION  
CLERK

DOCUMENT NUMBER-DATE

10395 OCT-8 8

FPSC-COMMISSION CLERK

**Mary Anne Helton**

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**From:** Mary Anne Helton  
**Sent:** Thursday, October 08, 2009 2:17 PM  
**To:** Barry Richard; Brian P. Armstrong Esq. ; Cecilia Bradley Esq.; J. R. Kelly ; J. Spina; Jack Leon ; John LaVia; John McWhirter; John T. Butler ; Jon C. Moyle Jr.; Joseph Mcglothlin, Esq.; Joseph W. Yarbrough (jyarbrough@southdaytona.org); K. Wiseman; L. Purdy; Lino Mendiola; Marcus Braswell (mbraswell@sugarmansusskind.com); Mark F. Sundback; Mary Smallwood; Meghan Griffiths; Mitchell S. Ross (Mitch.Ross@fpl.com); Natlie Smith; Rick Melson; Robert A. Sugarman; Schef Wright ; Scott E. Simpson; Shayla McNeill; Stephanie Alexander (sda@trippscott.com); Stephen Stewart; Susan Clark; Tamela I. Perdue (TPerdue@aif.com); Thomas Saporito (support@saporitoenergyconsultants.com); Vicki Gordon Kaufman ; Wade\_Litchfield; Alex Glenn; Audrey Van Dyke; Charles J. Beck; Charles Rehwinkel; Dan Moore; Dianne Triplett; F. Alvin Taylor; J. Michael Walls ; James Brew; Jim Selecky; John T. Burnett; Kay Davoodi; Lisa Stright ; Paul Lewis  
**Cc:** Ann Cole; Jennifer Brubaker; Lisa Bennett; Katherine Fleming; Tim Devlin; Marshall Willis  
**Subject:** FPL Rate and PEF Rate Cases, Docket Nos. 080677 and 090079  
**Importance:** High

Dear All:

As you know, the Governor sent a letter requesting the Commission to postpone its decision in both the Florida Power & Light Company (FPL) and Progress Energy Florida, Inc. (PEF) rate cases until the newly appointed Commissioners take office. In response, I indicated that the Commission would consider the Governor's request at its October 27, 2009, Agenda Conference. This will allow the discussion to be at an open, noticed meeting, and will give all parties an opportunity to be heard.

To that end, if you would like your arguments included in staff's recommendation to be filed for the October 27, 2009, agenda conference, we would appreciate receiving briefs by noon on Monday, October 12, 2009. In addition to filing the briefs in the docket files, we would appreciate it if you would e-mail the briefs in Word format to Katherine Fleming ([keflemin@psc.state.fl.us](mailto:keflemin@psc.state.fl.us)) and Lisa Bennett ([lbennett@psc.state.fl.us](mailto:lbennett@psc.state.fl.us)). The issues that should be addressed are listed below.

As you know, the current schedule for the PEF rate case is that parties' briefs are due on October 16, 2009. The current schedule also provides that staff's recommendation on revenue requirements and rate design is to be filed November 10, 2009, for the Commission to consider on November 19, 2009. The rates recommendation is currently scheduled for filing on November 24, 2009, with a Commission vote on December 1, 2009.

FPL's rate hearing is scheduled to reconvene on October 21, 2009, and conclude on October 23, 2009. The parties briefs are currently due on November 9, 2009. Under the current schedule, staff's recommendation on the revenue requirements and rate design is due on December 7, 2009, for the Commission to consider on December 21, 2009. The rates recommendation is currently scheduled to be filed on December 29, 2009, for a Commission vote on January 11, 2010.

Because the Commission's decisions on scheduling may impact the 8-month time-clock to implement rates, we would also appreciate briefings on the utilities' ability to implement new rates, subject to refund.

Please address the following issues:

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FPSC-COMMISSION CLERK

ISSUE 1: Can the Commission postpone its final decision in the Florida Power & Light Company's Petition for Base Rate Increase, and if so, how? In responding, please specifically address the applicability of Sections 120.569(2)(1), and 366.06(3), Florida Statutes, as well as any other relevant statutory and case law.

ISSUE 2: Can FPL begin charging rates subject to refund on January 1, 2010? In responding, please explain the authority relied upon and include in your explanation how the 2005 Rate Case Stipulation and the current approved stipulation setting January 1, 2010, as the effective date for service charges, and January 4, 2010, as the effective date for implementing rates, affects FPL's ability to begin charging new rates. Also include in your response any alternatives available to the Commission and parties regarding collection of rates during the postponed decision timeframe.

ISSUE 3: Can the Commission postpone its final decision in the Progress Energy Florida, Inc.'s Petition for Base Rate Increase, and if so, how? In responding, please specifically address the applicability of Sections 120.569(2)(1), and 366.06(3), Florida Statutes, as well as any other relevant statutory and case law.

ISSUE 4: If the Commission postpones its final decision in the PEF rate case, can PEF begin charging rates subject to refund on January 1, 2010? In responding, please explain the authority relied upon and include in your explanation how the 2005 Rate Case Stipulation affects PEF's ability to begin charging new rates. Also include in your response any alternatives available to the Commission and parties regarding collection of rates during the postponed decision timeframe.

I have one final request, please reply to my e-mail so that I know you have received it.

Please do not hesitate to call if you have any questions.

Thank you,  
Mary Anne Helton

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10/8/2009