Dorothy Menasco

From: Stright, Lisa [Lisa.Stright@pgnmail.com]

Sent: Tuesday, November 08, 2011 3:55 PM

To: Filings@psc.state.fl.us

Cc: Burnett, John; Triplett, Dianne; Lewis Jr, Paul; Lisa Bennett; Michael Barrett; 'James D. Beasley'; 'J. Jeffry Wahlen'; 'Butler, John'; 'Hoffman, Kenneth'; 'Jeffrey A. Stone'; 'Russell A. Badders'; 'Steven R. Griffin'; 'Paula K. Brown'; 'Keating, Beth'; 'KELLY.JR'; 'Charles Rehwinkel'; 'Thomas A. Geoffroy'; 'James W. Brew'; F. Alvin Taylor; 'Vicki Gordon Kaufman'; 'Jon Moyle'; 'Cecilia Bradley'; 'Susan D. Ritenour'; 'schef@gbwlegal.com'; Karen White

Subject: E-Filing & E-Service: PEF's Post-Hearing Brief - Dkt# 110001-EI

Attachments: 2011 PEF fuel cost recovery brief.pdf

This electronic filing is made by:

John T. Burnett
299 First Avenue North
St. Petersburg, FL 33733
John.burnett@pgnmail.com

Docket No. 110001-EI

On Behalf of Progress Energy Florida, Inc.

Consisting of 21 Pages.

The attached document for filing is PEF's Post-Hearing Brief in the above referenced docket.

Lisa Stright
Regulatory Analyst - Legal Dept.
Progress Energy Svc Co.
106 E. College Ave., Suite 800
Tallahassee, FL 32301
direct line: (850) 521-1425
VN 249-1425
lisa.stright@pgnmail.com

BEFORE THE PUBLIC SERVICE COMMISSION

In re: Fuel and purchased power cost recovery clause with generating performance incentive factor.

Docket No. 110001-EI
Date: November 8, 2011

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PROGRESS ENERGY FLORIDA'S
POST-HEARING BRIEF

Progress Energy Florida, Inc. hereby submits its Post-Hearing Brief addressing the recovery of the Crystal River Unit 3 replacement fuel costs through the Fuel and Purchased Power Cost Recovery Clause ("Fuel Clause") and the appropriate calculation of those costs.

I. INTRODUCTION

As part of the steam generator replacement project at Crystal River Unit 3 ("CR3"), Progress Energy Florida ("PEF") was required to create a temporary opening in the containment wall structure that surrounds the nuclear power core of the unit. During this process, PEF discovered a delamination in Bay 3-4 of the containment wall where some of the outer layers of concrete had separated from the other layers underneath. PEF performed a root-cause analysis of the delamination and began to repair the delamination. During the retensioning necessary to finalize the repairs, PEF discovered a second delamination. PEF is currently working on plans to repair the containment structure. While CR3 has been offline, PEF has bought fuel for its other generating units that are being used to provide the power that CR3 would otherwise generate.

The interveners have raised a series of issues that the Commission specifically ruled upon in last year's docket.[1] First, the interveners contend that PEF cannot recover replacement fuel

[1] Interveners also asked several questions with respect to the calculation and recovery of emission allowances associated with the CR3 outage. As Ms. Olivier clearly testified, PEF is not "double counting" or recovering the same costs in two different clauses. (Tr. 593-93) Rather, PEF is recovering fuel and capacity charges through this docket, and emission allowance costs through Docket 110007-EI.

and power costs in advance of a prudence determination for those costs. As the interveners have and must acknowledge, however, the Commission flatly rejected this same argument last year and allowed PEF to recover replacement fuel and power costs, subject to refund, in advance of a prudence determination.

Second, some of the interveners argue that it is unconstitutional for PEF to recover replacement fuel and power costs in advance of a prudence determination. This argument, however, is frivolous and is unsupported by applicable facts and law.

Third, the interveners argue that the Commission has unbridled discretion to defer any amount of fuel and replacement power costs for as long as the Commission wants for any reason the Commission sees fit. In fact, some of the interveners argue that the Commission may simply "split the baby" and arbitrarily allow recovery of only 50% of PEF's replacement fuel and power costs if the Commission subjectively "feels" that it would be "fair" to do so. As the Commission made clear in its 35 page order on the subject last year, however, the Commission does not and cannot act in an arbitrary manner and instead applies an objective analysis when deciding whether or not to defer any costs to a subsequent period. In fact, the Commission has specifically identified the factors that it considers on a holistic basis when making such a decision such as ratepayer impact, company impact, price signal accuracy, rate stability, and immediate and future year rate shock. When those factors are objectively applied to the amount of replacement fuel and power costs sought this year, it is evident that there has been little change to the analysis that the Commission performed last year when it rejected a deferral and decided that PEF should be allowed to recover all of its replacement fuel and power costs.

Finally, the interveners argue that PEF should assume two accidents for the purpose of

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Accordingly, PEF will not brief any issues with respect to the calculation and recovery of emission allowance costs. Those issues will be briefed in Docket 110007-EI.

NEIL insurance coverage rather than the one-accident assumption that is currently in PEF's fuel factors. In assuming one accident, however, PEF has used the best actual information that it has at this time and PEF can update this information when and if it receives any new actual coverage determinations from NEIL. Until that time, however, it makes sense for PEF to continue to use the best actual information it has for the purpose of fuel factor projections.

II. IN DOCKET NO. 100001-EI, THE COMMISSION DETERMINED THAT PEF SHOULD BE ALLOWED TO RECOVER ALL REPLACEMENT POWER COSTS, SUBJECT TO REFUND, PRIOR TO A DETERMINATION OF PRUDENCE AND NO JUSTIFICATION HAS BEEN PROVIDED FOR RECEDING FROM THAT FINDING

The Commission's Fuel Clause is an ongoing docket where the reasonableness of the costs of the fuel that utilities purchase is analyzed on an ongoing basis. *See Gulf Power Co. v. Public Serv. Comm'n*, 487 So. 2d 1036, 1037 (Fla. 1986). Each month, utilities file "A-Schedules" and "Form 423" reports with the Commission and the parties to the fuel docket to show the type, quantity, and price of fuel purchased. The utilities also file monthly generation performance reports with the Commission and the parties to show how the utilities' generation fleet has operated for the preceding month. Further, PSC Staff conducts audits of utility fuel expenses, and PSC Staff also conducts noticed informal meetings with the parties on any fuel issues that Staff may have questions on. Additionally, utilities file multiple sets of testimony at different points each year with hundreds of pages of supporting schedules and exhibits to show the reasonableness of all its fuel costs for the relevant periods. During this process, PSC Staff and intervening parties take written and oral discovery and are given the opportunity to present evidence at a week-long hearing each November. This is the process that the PSC uses each year to ensure that the billions of dollars of fuel costs that are passed on to ratepayers are reasonable. Only when a particular issue is raised does the Commission determine whether the utility's

actions were prudent in incurring these billions of dollars. Thus, virtually all of the *billions* of dollars that this Commission has passed on to customers in the fuel clause have *never* received a determination of prudence before the utility was entitled to recover those costs.

In this docket, the interveners are once again arguing that the Commission should ignore decades of practice and defer recovery of the CR3 replacement fuel costs pending a determination of prudence in Docket No. 100437-EI. The Commission has already decided this issue. The Interveners have provided no compelling argument for why the Commission should change course from last year's decision. It bears emphasis that the fuel cost recovery docket's purpose is to assess the reasonableness of a utility's cost projections, *see* Order No. PSC-97-0608-FOF-EI, "[i]t is not a prudence review." *See* Order No. PSC-07-0816-FOF-EI. Indeed, "[s]ince the determination of prudence associated with the CR3 outage has been 'spun-off' to a separate proceeding, . . . prudence is not ripe for consideration at this time." Order No. PSC-10-0734-FOF-EI, at 14. The Commission should therefore follow its well-established precedent and allow full and timely recovery of all PEF's fuel costs.

III. INTERVENERS' ARGUMENTS ARE DIRECTLY CONTRARY TO ESTABLISHED COMMISSION POLICY.

In Order No. PSC-10-0734-FOF-EI, the Commission held that "PEF shall be allowed to recovery [sic] all replacement power costs, subject to refund, prior to the determination of prudence." Although the Commission agreed with the interveners' contention that it had the discretion to defer recovery until a prudence determination was made, it noted "that if we approved a partial or full deferral of the requested recovery amount, PEF's customers would bear the burden of paying the carrying charges on the deferred amount if PEF is later deemed prudent." *Id.* at 14.

This latter statement recognized the burden that deferral can place on ratepayers and is consistent with Commission precedent. As described in Order Nos. PSC-08-0494-PCO-EI and PSC-08-0495-PCO-EI, the Commission has considered (1) fuel factor stability, (2) ratepayer impact, and (3) price signal accuracy when considering whether to defer all or a part of recoverable costs. All three factors counsel in favor of allowing full recovery in this case. Last year's rate impact of the CR3 replacement power was $3.82/mega-watt hour (MWh). (Tr. 543, line 8) This year's rate impact is $3.88/MWh. *Id.* at line 7. The increase requested is a minimal $.06/MWh. Full recovery (versus either partial or zero recovery) would therefore promote fuel factor stability while *protecting* the ratepayers from potential "rate shock" next year should fuel prices escalate. *See* Order No. PSC-10-0734-FOF-EI, at 17 ("While [the Commission has] the discretion to defer recovery of a portion of the costs, such deferral has been generally done to relieve rate shock associated with large increases in fuel costs. The appropriate goal in setting fuel factors . . . is to minimize over-recoveries or under-recoveries . . . by matching rates to costs as closely as possible, and to do so as the costs are being incurred"). Deferral of any amount would mean that next year customers would be requested to pay *next year's* fuel costs as well as *this year's* fuel costs *plus the interest* that has accrued on the deferred amount. *See id.* ("under-recovery or deferral of costs coupled with rising fuel prices could exacerbate a future increase in fuel factors. Further, deferring fuel costs while perhaps appropriate to relieve rate shock, causes additional interest expense.").

Thus, when considering whether to defer costs to a future period, the Commission utilizes a holistic approach and weighs many factors. These factors are the same as what a utility uses when determining whether to voluntarily request a deferral of costs. In addition to the customer impacts mentioned above (rate shock, price stability, and price signal), the Commission and the

utility consider the impacts of the deferral on the utility. Specifically, those impacts include things like the utility's cash flow, other deferrals that impact the utility, and how the deferral will affect the utility's ability to finance debt. In this instance, each of the utility factors weigh against deferral of the CR3 replacement power costs. Specifically, due to the Company's last rate case decision, which resulted in no additional cash flow, a deferral of the CR3 costs would be particularly detrimental to PEF's cash flow. Regarding other deferrals, the Commission just denied PEF's request to reverse part of the previously-approved rate mitigation plan for PEF's nuclear cost recovery clause dollars. So PEF's customers and the Company are already facing additional deferrals of costs. Finally, with respect to PEF's ability to finance debt, deferral of recovery of these costs could have a negative effect on PEF's ability to access credit markets. *See* Exs. 56 & 77; Tr. 450; 461-69. Thus, when considering all the factors, deferral of the CR3 replacement power costs is not warranted.

Notwithstanding the clear results of this objective analysis, the Interveners assert that the Commission should not allow preliminary rate recovery now, but instead wait until after the prudence review because: (1) the federal and state economies are bad; (2) the anticipated return to service date for CR3 has changed; and (3) the Company has allegedly acted imprudently and therefore it should bear the risk of having to wait for recovery of its replacement fuel costs. These arguments are contrary to Commission policy.

First, the Interveners claim that the fuel adjustment costs should remain with PEF's customers now because of the "bad economy." As PEF briefed extensively last year, a "bad economy" is ambiguous and virtually indefinable. Indeed, the Interveners themselves do not suggest what constitutes a bad economy, or how this new consideration could be applied in future cases.

The Interveners' claim that customers need money in their pockets now is equally specious. Commission policy to the contrary makes eminent sense – customers should be protected from the potentially significant burden of later having to pay recovery costs, plus interest. Under Commission policy, the utility is the entity that bears the burden of the added interest expense. Interveners, however, seek to subject the customers themselves to that unnecessary added expense. Essentially, the Interveners argue that the customers should pay these costs "on credit" by foregoing the expenditure now in lieu of paying later, with interest.[2]

Further, even if the Commission decided that a bad economy should be a consideration, it is not one that can be applied to this case. New agency policy must be promulgated in due course – with proper notice to affected parties – and may not be used in an ex post facto manner. *York v. State*, 10 So. 2d 813 (Fla. 1943); *see also Jordan v. Dep't of Prof'l Reg.*, 522 So. 2d 450 (Fla. 1st DCA 1988) (same). The Interveners' arguments here would require the Commission to depart from long-established policy, and the Commission can only prospectively change policies with due notice to the utilities seeking interim rate recovery.

The Commission's clear policy – through decades of application – is that, to prevent regulatory lag, utilities are able to recover their entire fuel cost concurrent with their expense, subject to a subsequent prudence review when the Commission is able to collect and analyze information relevant to the accuracy of the fuel expenditures. *See, e.g.*, Order 13452 (Fla. PSC June 22, 1984); Order 07-0816 (Fla. PSC Oct. 10, 2007). Thus, "clause recovery is immediate. There is a trade-off, however, as a utility remains uncertain as to whether the Commission will ultimately determine its expenditures to be prudent. . . . [The Commission's] ability to review

[2] Interveners may argue that PEF's customers should be allowed to pay for electric service later if they can use that money to pay off other higher-priced bills now rather than later. (Tr. 544-46) This argument is frivolous. Customers cannot defer payment for electric services just because they have other bills to pay in the meantime.

past expenditures by utilities is essentially a quid pro quo that was established in return for the benefit utilities receive." Order 07-0816, 2007 WL 2980912, at **6-7 (Fla. PSC Oct. 10, 2007).

This policy benefits both customers and utilities:

> [Utilities are benefited because] "[t]he current procedure eliminates the difference between the actual cost of fuel for an electric utility and the amount allocated for fuel in the utility's current general rate structure. *Citizens of State of Fla. v. Public Serv. Comm'n*, 403 So. 2d 1332, 1333 (Fla. 1981). Ratepayers also benefit because ***the procedure is designed to produce credits for consumers should fuel costs decrease***. In addition, the practice provides more rate stability and thus less confusion for ratepayers over the fuel adjustment charge. ***Finally, adjustment clauses were developed to protect the consumer in case of sharp decreases in fuel or commodity costs and the utility in cases of sharp increases***. *Pinellas County v. Mayo*, 218 So. 2d 749, 750 (Fla. 1969).
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>
> If we permit recovery now, we can later order a refund of these costs, with interest, if we determine the costs were imprudently incurred. . . . If we delay recovery of these costs until it is determined that all or a significant burden were prudently incurred, . . ., ***we may be putting a significant burden on customers at some future period. That burden will be heightened by interest which will accumulate on the unrecovered costs.***"

Order 97-0608, at 2, 4-5 (internal quotations omitted) (emphases added).

Interveners' argument is exactly opposite to this policy. If the Commission does not permit interim recovery costs now, but waits until after a prudence review, customers will bear a significant burden by having to not only pay in the future the recovery costs but also the interest incurred on those costs. Thus, the burden on the customer would be significantly higher. To the contrary, under interim recovery, the utility is the entity that will be required to pay interest if its recovery costs are deemed imprudent – the customer receives a credit.

Indeed, in Order 06-1057, the Commission rejected the precise argument made by the interveners here – that recovery be denied until after prudence could be determined. Instead, the Commission permitted interim cost recovery based on its established policy to protect consumers

from a later burden of paying recovery costs with interest. Moreover, the interveners' argument could lead to increased intergenerational inequity. "If the cost is deferred, even a year or a portion of a year, a slightly different set of customers will be charged for collection of the costs incurred." Order 08-0494.

Intervener's next argument, that the delayed return to service date favors deferral of recovery of CR3 replacement power costs, is also wrong. The Commission, in its order in last year's fuel clause, did not rely upon the return to service date to make its determination that PEF should recover all its CR3 replacement power costs. What the Commission did apply was, as explained above, a holistic and balanced approach that considered several factors, including rate shock and price stability. Because the Commission has never required a determination of prudence before passing billions of dollars to customers through the fuel clause, the Commission would not need to consider when a unit was coming online when deciding to allow cost recovery. Interveners' argument necessarily assumes that the Commission must make a determination of prudence before it allows recovery. This, of course, is contrary to decades of precedent and Commission policy involving recovery of costs through the fuel clause.

Interveners' argument that PEF caused the actions, and therefore should bear the risk, must also fail. This argument assumes that PEF is guilty before it has proven its innocence in the spin-off docket. This, of course, flies in the face of regulatory precedent. A utility's actions are presumed prudent. In any event, in the fuel clause, where a separate spin-off docket to determine prudence has been established, the Commission does not review the prudence of the actions at issue in the 110001-EI docket when determining how much fuel cost recovery is appropriate. The only factors that are appropriate for consideration are, as discussed above, factors like rate shock, price stability, and impact to all stakeholders equally. The Commission does not attempt

to determine whether the utility is perhaps prudent, or perhaps imprudent, during that determination. That is what the spin-off docket is for, and when that docket is resolved, then any needed adjustments can and will be made in the fuel clause.

IV. ALLOWING COST RECOVERY PRIOR TO A DETERMINATION OF PRUDENCE IS CONSTITUTIONAL

As demonstrated above, it has long been the policy of the Commission to allow recovery of reasonable fuel costs prior to a determination of the prudence of those costs, subject to refund. Now, the Interveners, and specifically FIPUG, argue that following this long-standing practice results in an unconstitutional taking of property. This argument fails as a matter of law.

First, the character of the cost recovery rule shows that this is not an instance of an eminent domain in which the government "takes" property. It is a permitted recovery of fuel costs by a utility to allow for the matching of cost recovery with expenditures. The Commission is merely setting the price that PEF is allowed to charge its customers for a product. There is no physical invasion of property. There is no government seizure of an account. There is no action by the government against the ratepayer. The government's only role here is to assure that the fuel costs passed on to customers are reasonable. It is also well-known that utility rates are highly regulated and thus subject to revision by regulation. *See* § 366.06(1), Fla. Stat. (". . . A public utility shall not, directly or indirectly, charge or receive any rate not on file with the commission for the particular class of service involved, and no change shall be made in any schedule.").

Second, it is well-settled that an obligation to pay money is not a per se exercise of eminent domain. "While a taking may occur when a specific fund of money is involved, the mere imposition of an obligation to pay money ... does not give rise to a claim under the Takings

Clause of the Fifth Amendment." *Commonwealth Edison Co. v. U.S.*, 271 F.3d 1327, 1340 (Fed. Cir. 2001); *Roedler v. Dep't of Energy*, 255 F.3d 1347 (Fed. Cir. 2001) (pass-through of government assessment to clean up nuclear waste was "neither a physical invasion of plaintiffs' real or personal property nor an appropriation of the plaintiffs' assets for a use unrelated to the levy."); *Connolly v. Pension Benefit Guar. Corp.*, 475 U.S. 211, 223-24 (1986) (the payment of money to fund a reasonable legislative purpose is not a taking); *U.S. v. Sperry Corp.*, 493 U.S. 52, 62 n.9 (1989) ("It is artificial to view deductions of a percentage of a monetary award as physical appropriations of property. Unlike real or personal property, money is fungible."); *Swisher Intern., Inc. v. Schafer*, 550 F.3d 1046, 1054 (11th Cir. 2008) ("Our independent evaluation of the case law leads us to agree ... that the takings analysis is not an appropriate analysis for the constitutional evaluation of an obligation imposed by Congress merely to pay money."). This well-settled authority directly defeats interveners' argument that customers' money is being "taken" within the meaning of the federal a state constitutions. Indeed, if interveners' arguments are accepted, the Commission has been unconstitutionally taking consumers' money by allowing fuel clause recovery for thirty years. That would be an absurd result.

Additionally, some of the interveners may argue that allowing cost recovery prior to a prudence determination is a violation of due process. At its core, this argument boils down to the contention that the interveners have been denied their right to be heard regarding the fuel costs. *See, e.g., Mathews v. Eldridge*, 424 U.S. 319, 333 (1976) (due process guarantees the opportunity to be heard "at a meaningful time and in a meaningful manner.") (quoting *Armstrong v. Manzo*, 380 U.S. 545, 552 (1965)). This argument must fail. The fuel cost recovery docket provides customers with a forum for providing input to the Commission on a utility's fuel cost

projections prior to the Commission's finding that the projections are reasonable. Customers can participate in discovery, call witnesses and cross-examine the utility's witnesses. Thus, this is a situation where customers are given an opportunity to participate prior to the final decision and after the fact. Therefore, the recovery of reasonable fuel costs, subject to refund, prior to a determination of prudence fully comports with the requirements of due process. Moreover, a finding to the contrary is an acknowledgement that fuel costs have been collected for *over 30 years* in violation of Florida rate payers' due process rights. Such a finding would also lead to an absurd result.

V. THE COMMISSION SHOULD NOT ARBITRARILY APPORTION THE AMOUNT OF COSTS PROGRESS MAY PRELIMINARILY RECOVERY PENDING PRUDENCE REVIEW.

As demonstrated in the orders above, the Commission has never arbitrarily "split the baby" on the issue of interim cost recovery. Consistent with the purpose of the fuel adjustment clause – to allow utilities to immediately recover their projected costs subject to a potential refund – the Commission has generally always allowed the interim recovery of reasonable costs in their full amounts. *See* Tr. 533-34 ("The reason that we're asking to recover to [sic] our fuel costs is because they are being spent. The Commission allows us to recover our fuel costs as we spend those based on our projections, and then there's the true up mechanism. So these are the costs that we are expending today for fuel, and then we recover those costs as they are spent."). Thus, expenditures are matched with revenues. Indeed, to apportion the amount of recovery would lead to arbitrary and unreasonable results and cause significant confusion among the Commission, utilities, and customers. *See Fla. Bridge Co. v. Bevis*, 363 So. 2d 799 (Fla. 1978) (finding ration chosen by Commission had no support in logic, precedent, or policy and was therefore arbitrary and capricious).

Thus, if the Commission decided to allow PEF to only recover a percentage of its projected costs without analysis, then it would be acting arbitrarily and contrary to law. It is inappropriate for the Commission to simply pull a number out of the air. However, the Commission can, and has in the past, use analysis to support its chosen percentage. For example, in 2008, in connection with PEF's request for a mid-course correction in the fuel clause, the Commission considered four different scenarios when analyzing whether to allow recovery of all or some of the Company's requested mid-course correction. *See* Order No. PSC-08-0495-PCO-EI and Order No. PSC-10-0734-FOF-EI (summarizing the Commission's actions in Order 08-0495). Using the information provided on those four options by PEF and the other relevant factors discussed above, the Commission weighed the options and ultimately landed on the 50-50 option, because, based on the particular set of facts and circumstances in that year, a "stepped increase" would give PEF's customers a better opportunity to adjust budgets for an expected increase the following year. *Id.* at 13. Thus, any suggestion that the Commission has a past precedent of pulling deferral percentages out of thin air is false.

VI. PEF'S PROJECTED REPLACEMENT COSTS ARE REASONABLE AND RECOVERABLE.

The only question remaining is whether PEF has satisfied the Commission's required showing of the reasonableness of its projected costs. It has. PEF has met this reasonableness standard through the exhibits and testimony of all its witnesses and through all the filings and the process described above that PEF and the parties engage in each year in the fuel docket. Among other things, PEF has explained the types of fuels PEF had to purchase, including the replacement fuels, the costs of these fuels, and that these fuels were necessary and their costs within the market for such fuels. Further, and as noted above, no intervener has taken issue with

the reasonableness of any of PEF costs – rather, they have argued that the costs should not be recovered based on emotional, not legal, reasons.

Simply stated, PEF has met its burden of showing that its replacement fuel costs are reasonable, and therefore the Commission should approve those costs, subject to refund with interest pending a prudency review. This is the exact same proof from which the Commission last year permitted the preliminary recovery of the Company's fuel costs. *See* Order No. PSC-10-0734-FOF-EI (approving replacement costs as reasonable).

VII. PEF BASED ITS ASSUMPTIONS FOR NEIL RECOVERY ON THE BEST AVAILABLE AND MOST REASONABLE INFORMATION AVAILABLE.

For purposes of calculating the expected insurance reimbursements from NEIL, PEF assumed that the CR3 incident would be eligible as one event, because NEIL has thus far only indicated that the event is a single event. PEF therefore based its coverage assumption on the best available information. (Tr. 438-41; 555) Although there has been a second delamination in the building, and PEF has submitted this information to NEIL, NEIL has not made a determination as to how this second delamination will be handled for purposes of insurance coverage. NEIL is investigating the circumstances and PEF continues to work with NEIL so that a proper determination can be made. (Tr. 439; 527)

Interveners question this assumption and argue that PEF should assume that NEIL will provide for coverage based on two events. The Commission, just like it always does when considering forecasts and projections, should use the best available information it has to determine the most reasonable assumption with respect to NEIL coverage. And that best available information shows that, right now, NEIL considers the CR3 outage to be a single event. (Tr. 438-41; 555)

This event is unprecedented and first of its kind. (Tr. 595) What is relevant, however, is what PEF knows today, and what PEF knows today is that NEIL is treating this as one event while it continues to investigate. It is possible that NEIL could determine there to be two separate events, and at that point PEF can make the appropriate adjustments to its fuel clause filings, pursuant to the usual true-up mechanism it always utilizes in the fuel clause. This is no different from a change in fuel forecast; the Company always trues up actual prices against projected prices.

VIII. STATEMENT OF ISSUES AND POSITIONS

With respect to those issues which were not stipulated and approved by the Commission, PEF offers the following positions:

ISSUE 1C: Should PEF be permitted to recover the costs of replacement power due to the extended outage at Crystal River 3 in this docket?

PEF Position:

Yes. The Commission has already decided the issue of whether replacement fuel costs should be recovered in Order PSC-10-0734-FOF-EI. PEF has demonstrated the reasonableness of these fuel costs and thus should be permitted to recover these costs, subject to refund pending the determination in Docket No. 100437-EI.

ISSUE 8: What are the appropriate fuel adjustment true-up amounts for the period January 2010 through December 2010?

PEF Position:

$158,825,721 under-recovery.

ISSUE 9: What are the appropriate fuel adjustment actual/estimated true-up amounts for the period January 2011 through December 2011?

PEF Position:

$35,666,520 over-recovery.

ISSUE 10: What are the appropriate total fuel adjustment true-up amounts to be collected/refunded from January 2012 to December 2012?

PEF Position:

$123,159,202 under-recovery.

ISSUE 11: What are the appropriate projected total fuel and purchased power cost recovery amounts for the period January 2012 through December 2012?

PEF Position:

$1,786,078,923.

ISSUE 18: What are the appropriate projected net fuel and purchased power cost recovery and Generating Performance Incentive amounts to be included in the recovery factor for the period January 2012 through December 2012?

PEF Position:

$1,907,632,686.

ISSUE 20: What are the appropriate levelized fuel cost recovery factors for the period January 2012 through December 2012?

PEF Position:

5.168 cents per kWh (adjusted for jurisdictional losses).

ISSUE 22: What are the appropriate fuel cost recovery factors for each rate class/delivery voltage level class adjusted for line losses?

PEF Position:

*Fuel Cost Factors (cents/kWh)						
					Time of Use	
Group	Delivery Voltage Level	First Tier Factor	Second Tier Factors	Levelized Factors	On-Peak	Off-Peak
A	Transmission	--	--	5.072	7.238	4.027
B	Distribution Primary	--	--	5.123	7.311	4.068
C	Distribution Secondary	4.860	5.860	5.175	7.385	4.109
D	Lighting	--	--	4.722	--	--*

ISSUE 23A: Has PEF included in the capacity cost recovery clause, the nuclear cost recovery amount ordered by the Commission in Docket No. 110009-EI?

PEF Position:

Based on the Commission's vote at the October 24, 2011 special agenda conference in Docket No. 110009-EI, the nuclear cost recovery amount to be recovered in PEF's 2012 capacity cost recovery clause factors is $85,951,036 (before revenue taxes).

ISSUE 27: What are the appropriate capacity cost recovery true-up amounts for the period January 2010 through December 2010?

PEF Position:

$14,684,019 over-recovery.

ISSUE 28: What are the appropriate capacity cost recovery actual/estimated true-up amounts for the period January 2011 through December 2011?

PEF Position:

$5,983,484 over-recovery.

ISSUE 29: What are the appropriate total capacity cost recovery true-up amounts to be collected/refunded during the period January 2012 through December 2012?

PEF Position:

$20,667,503 over-recovery.

ISSUE 30: What are the appropriate projected total capacity cost recovery amounts for the period January 2012 through December 2012?

PEF Position:

$373,845,099.

ISSUE 31: What are the appropriate projected net purchased power capacity cost recovery amounts to be included in the recovery factor for the period January 2012 through December 2012?

PEF Position:

$439,444,805 consisting of $353,431,884 of capacity payments and $86,012,921 of nuclear costs (including revenue taxes) as approved by the Commission at the October 24, 2011 special agenda conference in docket No. 110009-EI.

ISSUE 33: What are the appropriate capacity cost recovery factors for the period January 2012 through December 2012?

PEF Position:

*Rate Class	CCR Factor
Residential	1.460 cents/kWh
General Service Non-Demand	1.064 cents/kWh
@ Primary Voltage	1.053 cents/kWh
@ Transmission Voltage	1.043 cents/kWh
General Service 100% Load Factor	0.767 cents/kWh
General Service Demand	1.949 cents/kWh
@ Primary Voltage	1.940 cents/kWh
@ Transmission Voltage	1.930 cents/kWh
Curtailable	0.873 cents/kWh
@ Primary Voltage	0.864 cents/kWh
@ Transmission Voltage	0.856 cents/kWh
Interruptible	0.765 cents/kWh
@ Primary Voltage	0.757 cents/kWh
@ Transmission Voltage	0.750 cents/kWh
Lighting	0.223 cents/kWh*

WHEREFORE, for all the reasons stated above, PEF respectfully requests that the

Commission approve its request for fuel cost recovery, including all CR3 replacement fuel costs and all fuel costs as calculated assuming "single event" NEIL coverage.

Respectfully submitted this 8th day of November, 2011.

s/ John T. Burnett
R. ALEXANDER GLENN
General Counsel
JOHN T. BURNETT
Associate General Counsel
DIANNE M. TRIPLETT
Associate General Counsel II
Progress Energy Service Co., LLC
299 First Avenue North
St. Petersburg, FL 33701-3324
Telephone: (727) 820-5184
Facsimile: (727) 820-5249
E-Mail: john.burnett@pgnmail.com

Attorneys for PROGRESS ENERGY FLORIDA

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished via electronic mail this 8th day of November, 2011 to all parties of record as indicated below.

s/ John T. Burnett
JOHN T. BURNETT

Lisa Bennett, Esq. Office of General Counsel Florida Public Service Commission 2540 Shumard Oak Blvd. Tallahassee, FL 32399-0850 lbennett@psc.state.fl.us James D. Beasley, Esq. Jeffry Wahlen, Esq. Ausley & McMullen Law Firm P.O. Box 391 Tallahassee, FL 32302 jbeasley@ausley.com John T. Butler, Esq. Florida Power & Light Co. 700 Universe Boulevard Juno Beach, FL 33408 John.butler@fpl.com Ken Hoffman Florida Power & Light 215 S. Monroe Street, Ste. 810 Tallahassee, FL 32301-1859 Ken.hoffman@fpl.com Jeffrey A. Stone, Esq. Russell A. Badders, Esq. Steven R. Griffin Beggs & Lane Law Firm P.O. Box 12950 Pensacola, FL 32591 jas@beggslane.com rab@beggslane.com srg@beggslane.com Ms. Paula K. Brown Tampa Electric Company P.O. Box 111 Tampa, FL 33601 regdept@tecoenergy.com	Beth Keating Gunster, Yoakley & Stewart, P.A. 215 S. Monroe St., Ste 618 Tallahassee, FL 32301 bkeating@gunster.com J.R.Kelly/Charles Rehwinkel Office of Public Counsel c/o The Florida Legislature 111 West Madison Street, #812 Tallahassee, FL 32399 Kelly.jr@leg.state.fl.us Rehwinkel.charles@leg.state.fl.us Tom Geoffroy Florida Public Utilities Company P.O. Box 3395 West Palm Beach, FL 33402-3395 tgeoffroy@cfgas.com James W. Brew, Esq. c/o Brickfield Law Firm 1025 Thomas Jefferson St., NW 8th Floor, West Tower Washington, DC 20007 jbrew@bbrslaw.com Keefe Law Firm Vicki Gordon Kaufman/Jon C. Moyle, Jr. 118 North Gadsden Street Tallahassee, FL 32301 vkaufman@kagmlaw.com Ms. Cecilia Bradley Office of the Attorney General The Capitol - PL01 Tallahassee, FL 32399-1050 Cecilia.bradley@myfloridalegal.com

Ms. Susan D. Ritenour Gulf Power Company One Energy Place Pensacola, FL 32520-0780 sdriteno@southernco.com Karen S. White, Staff Attorney c/o AFCESA-ULFSC 139 Barnes Drive, Suite 1 Tyndall AFB, FL 32403-5319 karen.white@tyndall.af.mil	Florida Retail Federation Robert Scheffel Wright/John T. LaVia, c/o Gardner, Bist, Wiener Law Firm 1300 Thomaswood Drive Tallahassee, FL 32308 schef@gbwlegal.com