

State of Florida



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## 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:** March 10, 2009  
**TO:** Kimberley Pena, Office of Commission Clerk  
**FROM:** John Slemkewicz, Division of Economic Regulation JS  
**RE:** Docket No. 090079-EI, Progress Energy Florida, Inc. Rate Case - Documents

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Attached are two documents for inclusion in the docket file for Docket No. 090079-EI, Petition for Rate Increase by Progress Energy Florida.

The first document is a letter (8 pages) from Charles Rehwinkel (OPC) to John Burnett (PEF), dated February 25, 2009, concerning the filing of certain supplemental MFRs for the year 2009.

The second document is a letter (1 page) from John Burnett to Charles Rehwinkel, dated February 27, 2009, in response to the 2009 supplemental MFR letter.

DOCUMENT NUMBER-DATE

01931 MAR 10 8

FPSC-COMMISSION CLERK

JEFF ATWATER  
*President of the Senate*



J. R. Kelly  
Public Counsel

STATE OF FLORIDA  
OFFICE OF PUBLIC COUNSEL

c/o THE FLORIDA LEGISLATURE  
111 WEST MADISON ST.  
ROOM 812  
TALLAHASSEE, FLORIDA 32399-1400  
850-488-9330

EMAIL: [OPC\\_WEBSITE@LEG.STATE.FL.US](mailto:OPC_WEBSITE@LEG.STATE.FL.US)  
[WWW.FLORIDAOPC.GOV](http://WWW.FLORIDAOPC.GOV)

RAY SANSOM  
*Speaker of the House of  
Representatives*



February 25, 2009

John T. Burnett  
Progress Energy Service Company, LLC  
299 1<sup>st</sup> Avenue North  
St. Petersburg, Florida 33701

Docket No. 090079-EI; Interim Test Year Request

Dear John:

I am writing regarding Progress Energy Florida's (PEF) intentions regarding the filing of Minimum Filing Requirements ("MFRs") in Docket 090079-EI. As you may be aware, in the pending FPL rate case (Docket No. 080677-EI), this office is opposing the selection of 2010 as the appropriate Test Year, and is contending that the Commission should use 2009 instead. See attached December 2, 2008 letter from J.R. Kelly to Chairman Matthew Carter. We object to the 2010 Test Year for PEF on the same grounds stated therein. In a series of correspondence culminating in the attached December 23, 2008 letter from Chairman Carter to Wade Litchfield, the Chairman issued an interim approval for the use of 2010 as FPL's test year, while reserving to the case the ultimate decision on the appropriate test period.

In that letter, the Chairman also directed that the company file a complete set of MFRs minus the rate information for the year 2009 to be filed within two weeks after the filing of the 2010-based MFRs. The Chairman's decision was the result of a series of meetings among the parties and staff. We believe that this same outcome is appropriate for this docket inasmuch as it appears to be a case of a similar magnitude and because the two utilities will file their MFRs at the same time.

As a way of avoiding the necessity of filing of a letter very similar to our December 2, 2008 letter and any contentiousness in this regard, this office is requesting that PEF make a similar filing of limited 2009 MFRs, analogous to those prescribed for FPL within two weeks of the filing of PEF's 2010 MFRs. Hopefully, PEF observed the process and the ruling in the FPL

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Letter to John T. Burnett  
February 25, 2009  
Page 2

case and has made arrangements to prepare the 2009 MFRs in the likely event that a similar objection and/or filing requirement would accompany any interim approval of a 2010 test year for PEF.

Please advise us at your earliest convenience if you would like to discuss this matter and what PEF's intentions are in this regard.

Sincerely,

A handwritten signature in black ink, appearing to read "C. J. Rehwinkel", with a long horizontal line extending to the right.

Charles J. Rehwinkel  
Associate Public Counsel

cc: Patrick "Booter" Imhof, General Counsel  
Dr. Mary Bane, Executive Director

Attachments

JEFF ATWATER  
President of the Senate

RAY SANSOM  
Speaker of the House of  
Representatives

STATE OF FLORIDA  
OFFICE OF PUBLIC COUNSEL



J.R. Kelly  
Public Counsel

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RECEIVED-FPSC  
08 DEC -3 AM 8:26  
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December 2, 2008

Re: Docket No. 080677-EI

Dear Chairman Carter:

By letter dated November 17, 2008, Florida Power & Light Company ("FPL") informed the Commission of its intent to file in the spring of 2009 a petition for authority to increase its base rate charges. In its letter, FPL proposed to use projected year 2010 as the "test year" for ratemaking purposes. As you are aware, the test year becomes the basis for the preparation by the utility of its Minimum Filing Requirements ("MFRs"). The purpose of the test year and associated MFRs is to construct an annual period of financial and operating information that is representative of the time frame for which base rates are to be designed.

The Office of Public Counsel ("OPC") opposes the use of projected calendar year 2010 as the test period for an FPL rate case request to be filed in March 2009. While the *concept* of using projected data has been sanctioned in the past, it is indisputable that, the farther into the future that a utility attempts to project data, the greater the amount of uncertainty that attends such projections. Just as the use of projections that reach too far into the future make it more difficult for the requesting utility to construct a meaningful "representative period" for ratemaking purposes, the remoteness in time of the data to the ratemaking process renders the validity and reasonableness of such projections more difficult for affected parties and the Commission to assess. The usefulness of projected data in designing rates that will function well during the time in which they are effective must be balanced against the uncertainty and imprecision that characterize data that attempts to reach too far into the future. Further, where warranted by circumstances, adjustments to actual data can function as well as projections to yield a test year that is appropriate for designing rates. OPC believes projections for 2010 would lack the degree of reliability and the confidence level upon which the Commission should insist, and to which customers are entitled. OPC submits that the use of calendar year 2009 is far better suited for the choice of the test period.

Additional reasons support the choice of calendar year 2009. First, the utility has recently been heavily involved in fashioning its budget for the coming calendar year. The budget process involves a detailed, bottoms-up preparation of assumptions that are geared to operations in the near future.

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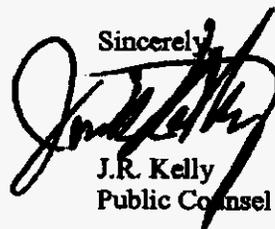
Converting the assumptions and supporting data that were developed for the budget into corresponding MFR schedules will be a straightforward process. On the other hand, using calendar year 2010 would necessarily involve significant additional time and effort on the part of the utility beyond that which already has been expended during the preparation of the budget for 2009. Compared to calendar year 2010, the choice of 2009 should, therefore, result in lower overall rate case expense. Similarly, relative to data for calendar year 2009, the use of projections for 2010 would impose more time-consuming requirements of review and analysis on parties who will already face significant time constraints.

Second, FPL is scheduled to file in March 2009 its next depreciation study. The revised depreciation rates that result from the study will take effect as of January 1, 2009. They likely will affect the ultimate disposition of the utility's base rate request. The analyses required for the depreciation filing, the budget, and the rate case should be as consistent as possible. It only makes sense to coordinate the depreciation study, the budget for 2009, and the test year for the upcoming rate case by adopting calendar year 2009 as the test period for the base rate request.

Third, the use of a 2009 test year will enable the Commission to assess the Company's financial posture partly on the basis of actual data (several months of which will be available by the time of the decision in the rate case) and partly on the basis of projected data (thereby employing a sufficient quantity of projections to ensure the test year is representative of the future without sacrificing reliability of data).

OPC is aware that the Commission typically directs the notifying utility to proceed on the basis of its proposed test year, with the caveat that the appropriateness of the choice of test years will be an issue in the case. In this instance, OPC urges the Commission to reject projected calendar year 2010 as the test period now, and to direct FPL to base its request on calendar year 2009. Given the significance of this decision to the processing of FPL's request, certainty is desirable now. Further, a decision now will avoid the significant complications that would be associated with converting pre-prepared MFRs from 2010 to a 2009 basis during the case in the event the Commission agrees with OPC that calendar year 2010 is an inappropriate choice for the test year.

In its letter, FPL alluded to other adjustments and ratemaking devices it intends to propose in its filing (step increase, generation base rate adjustments). At this time, OPC is addressing solely the choice of test years. To be clear, our silence on other matters identified in FPL's letter does not signify agreement or acquiescence to those additional parameters of FPL's request.

Sincerely,  
  
J.R. Kelly  
Public Counsel

cc: Florida Public Service Commission (via Hand-Delivery)  
Hon. Lisa P. Edgar, Commissioner

**Hon. Nancy Argenziano, Commissioner**  
**Hon Nathan A. Skop, Commissioner**  
**Dr. Mary A. Bane, Executive Director**  
**Michael G. Cooke, General Counsel**  
**Charles Hill, Deputy Executive Director**  
**Timothy J. Devlin, Director of Economic Regulation**  
**Beth Salak, Director of Regulatory Compliance**  
**Cynthia Muir, Director of Public Information**  
**Ryder Rudd, Director of Strategic Analysis and Governmental Affairs**  
**Ann Cole, Director of Commission Clerk and Administrative Services**  
**Armando J. Olivera, President, Florida Power & Light Company**  
**John Butler, Esquire, Florida Power & Light Company**

MATTHEW M. CARTER II  
CHAIRMAN

STATE OF FLORIDA



Capital Circle Office Center  
2540 Shumard Oak Boulevard  
Tallahassee, FL 32399-0850  
(850) 413-6046

Public Service Commission

December 23, 2008

RECEIVED-FPSC  
08 DEC 23 PM 4: 59  
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Mr. R. Wade Litchfield  
Mr. John T. Butler  
Florida Power & Light Company  
700 Universe Boulevard  
Juno Beach, FL 33408-0420

Re: **Docket No. 080677-EI - Application for increase in rates by Florida Power & Light Company**

Dear Mr. Litchfield and Mr. Butler:

I am responding to your letter, dated December 22, 2008, requesting an interim decision approving calendar year 2010 as the appropriate test year to be used to establish rates for the upcoming Florida Power & Light Company (FPL) rate case. In your letter you also indicate that, in response to a meeting with the Office of Public Counsel (OPC) and commission staff, FPL will supplement its 2009 Minimum Filing Requirements (MFR) with an additional filing of MFR schedules which were listed in an attachment to your letter, with the supplemental schedules to be filed within two weeks of the filing of FPL's rate case application.

Your request for interim approval of the calendar year 2010 as the test year to be used to establish rates for the upcoming FPL rate case is approved. The approval of this test year is interim in nature and will be an issue subject to deliberation during the evidentiary proceeding. As you are aware, the Commission or intervenors may request data from other years.

As a result of the referenced meetings with OPC and staff, FPL agreed to file a complete set of MFRs for 2009 excluding rate schedule information. Our staff has reviewed the list attached to your letter and believes that ten additional schedules must be included before it can be considered complete. In order to make the supplemental filing complete for 2009, FPL must file the ten additional MFR schedules identified by an asterisk in the attachment to this letter. The complete set of supplemental MFR schedules must be filed no later than two weeks after the rate case application is filed.

Pursuant to my November 18, 2008 letter, the MFRs and associated testimony shall be filed with the Office of the Commission Clerk no earlier than January 16, 2009, and no later than March 31, 2009. If the company is unable to file within this time period, it must notify the Commission in accordance with the provisions of Rule 25-6.140(3), Florida Administrative Code.

DOCUMENT NUMBER-DATE

11871 DEC 23 08

Mr. R. Wade Litchfield  
Mr. John Butler  
Page 2  
December 23, 2008

If you should have any questions, please contact Marshall Willis, Assistant Director,  
Division of Economic Regulation, at (850) 413-6914.

Sincerely,  
  
Matthew M. Carter II  
Chairman

cc: Commissioner Lisa Polak Edgar  
Commissioner Katrina J. McMurrin  
Commissioner Nancy Argenziano  
Commissioner Nathan A. Skop  
Dr. Mary Bane, Executive Director  
Mary Anne Helton, Deputy General Counsel  
Timothy Devlin, Director of Economic Regulation  
Marshall Willis, Assistant Director of Economic Regulation  
Ann Cole, Commission Clerk ✓  
J. R. Kelly, Public Counsel  
Joseph A. McGlothlin, Office of Public Counsel  
Charles J. Beck, Office of Public Counsel

<b>Supplemental 2009 MFRs</b>	
<b>MFR Schedule</b>	<b>Title</b>
B-04	Two Year Historical Balance Sheet
B-05	Detail of Changes in Rate Base
B-06	Jurisdictional Separation Factors - Rate Base
B-07	Plant Balances by Account and Sub Account
B-08	Monthly Plant Balances Test Year -13 Months
B-09	Depreciation Reserve Balances by Account and Sub Account
B-10	Monthly Reserve Balances Test Year -13 Months
B-11	Capital Additions and Retirements
B-13	Construction Work in Progress
B-14	Earnings Test
*B-19	Miscellaneous Deferred Debits
*B-20	Other Deferred Credits
*B-21	Accumulated Provision Accounts - 228.1, 228.2 and 228.4
C-04	Jurisdictional Separation Factors - NOI
C-05	Operating Revenues Detail
C-09	Five Year Analysis - Change in Cost
C-10	Detail of Rate Case Expenses for Outside Consultants
C-11	Uncollectible Accounts
C-12	Administrative Expenses
C-13	Miscellaneous General Expenses
*C-14	Advertising Expenses
*C-15	Industry Association Dues
C-17	Pension Cost
*C-18	Lobbying Expenses, Other Political Expenses and Civic/Charitable Contributions
C-22	State and Federal Income Tax
C-23	Interest in Tax Expense Calculation
*C-24	Parent(s) Debt Information
C-26	Income Tax Returns
C-27	Consolidated Tax Information
C-28	Miscellaneous Tax Information
*C-30	Transactions with Affiliated Companies
C-31	Affiliated Company Relationships
C-34	Statistical Information
C-37	O & M Benchmark Comparison by Function
C-38	O & M Adjustments by Function
C-39	Benchmark Year Recoverable O&M Expenses by Function
*C-41	O&M Benchmark Variance by Function
*C-44	Revenue Expansion Factor
D-07	Common Stock Data
D-08	Financing Plans - Stock and Bond Issues
E-17	Load Research Data
F-01	Annual and Quarterly Report to Shareholders
F-02	SEC Reports
F-03	Business Contracts with Officers or Directors
F-04	NRC Safety Citations
F-05	Forecasting Models
F-06	Forecasting Models - Sensitivity of Output to Changes in Input Data
F-07	Forecasting Models - Historical Data
F-08	Assumptions



February 27, 2009

**VIA ELECTRONIC MAIL**

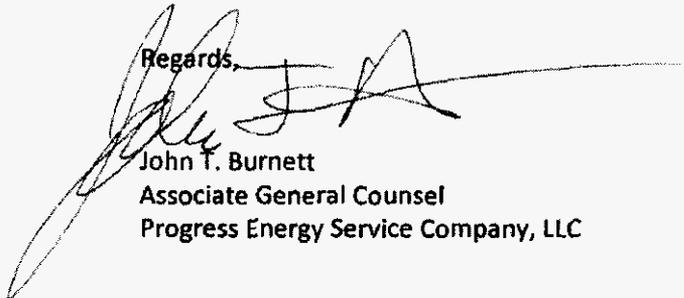
Mr. Charles J. Rehwinkel  
Office of Public Counsel  
c/o The Florida Legislature  
111 West Madison Street, Room 812  
Tallahassee, Florida 32399

*Re: Petition for increase in rates by Progress Energy Florida; Docket No. 090079-EI*

Dear Charles:

In response to your letter to me on February 25, 2009 regarding Progress Energy Florida's ("PEF") test year request in Docket No. 090079-EI, I would draw your attention to Page 10 of PEF's Test Year Letter in that docket, second full paragraph, wherein Mr. Lyash states that "[c]onsistent with its request for a 2010 test year, PEF also requests approval to use the Company's 2009 budget for the "prior year" and the Company's 2008 actual results for the "historical year" in the preparation of its Minimum Filing Requirements (MFRs) for the base rate proceeding." As you can see from this language, PEF has already announced its intention to provide the MFRs that you request in your February 25, 2009 letter, which renders your request moot. We continue to maintain, however, that the appropriate test year is 2010.

Regards,



John T. Burnett  
Associate General Counsel  
Progress Energy Service Company, LLC

cc: Patrick "Booter" Imhof, General Counsel  
Dr. Mary Bane, Executive Director