BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Petition for Rate Increase by)
Progress Energy Florida, Inc.) DOCKET NO. 050078-EI
) FILED: August 10, 2005

THE ATTORNEY GENERAL'S POSITION STATEMENT

The Attorney General, pursuant to the Order Establishing Procedure in this case, hereby files his position on the issues.

A. APPEARANCES:

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Jack Shreve, Special Counsel, Office of the Attorney General, PL-01, The Capitol, Tallahassee, FL 32399, (850) 414-3681

On Behalf of the State of Florida.

B. WITNESSES:

None in addition to those previously identified by the parties. The Attorney General reserves the right to solicit testimony from and cross-examine the witnesses of other parties to this proceeding.

C. EXHIBITS:

None in addition to those previously identified by the parties. The Attorney General reserves the right to introduce appropriate exhibits through the witnesses of the other parties to this proceeding.

D. STATEMENT OF BASIC POSITION:

Progress Energy Florida's base rates and charges should be reduced by an aggregate of at least $360 million per year, and PEF's request for a base rate increase should be denied in its entirety. The Attorney General submits that a substantial reduction in PEF's retail base rates is appropriate based upon the analyses of PEF's Minimum Filing Requirements ("MFRs"), PEF's testimony and exhibits, and discovery responses submitted by PEF, and as explained by the testimony and exhibits of the witnesses for the Consumers in this case.

The Attorney General's position is based on PEF's MFRs, testimony, exhibits, and discovery responses, and is summarized here as follows:

1. PEF's requested rate of return on equity ("ROE") is grossly excessive relative to the risks that PEF actually bears in its Florida operations and relative to actual capital market conditions. Significantly, more than 67% of PEF's total operating expenses is recovered through pass-through surcharges and tax adders, for which PEF bears effectively zero risk. An ROE of 12.8%, after-tax, is more than triple the current rate paid on Certificates of Deposit and long-term U.S. Treasury bonds, and would provide an unwarranted return to FPL's investors relative to the minimal risks that they bear. PEF has also overstated the appropriate equity percentage in its capital structure and has overstated various plant in service amounts and various working capital amounts. These should be corrected in determining PEF's allowable rate base and capital structure for ratemaking purposes.

2. PEF has accumulated aggregate depreciation reserves of approximately $1.2 billion since its last depreciation study. To provide fair treatment to the customers who have paid in the monies that created this surplus and to provide treatment for customers in this depreciation surplus situation that is consistent and symmetric with the treatment afforded PEF and other utilities in depreciation deficit situations, the Commission should require PEF to amortize approximately $713 million of this surplus over 4 years, with the balance of $504 million amortized over approximately 19.5 years as proposed by PEF. The Commission should also require PEF to amortize PEF's $129.8 million excess in its Nuclear Decommissioning Fund over 4 years. The result of flowing back these excess reserves over an appropriate 4-year period, consistent with Commission precedent, will be a reduction in PEF's retail base rate revenue requirement of approximately $211 million per year.

3. PEF's request for a seven-fold increase in its annual accrual to its Storm Damage Reserve is excessive, particularly in light of the Commission's recent decisions authorizing special storm cost surcharges in Docket No. 041291-EI, <u>In Re: Petition for Authority to Recover Prudently Incurred Storm Restoration Costs Related to 2004 Storm Season That Exceed Storm Reserve Balance, by Florida Power & Light Company</u>, and Docket No. 041272-EI, <u>In Re: Petition for Approval of Storm Cost Recovery Clause for Recovery of Extraordinary Expenditures Related to Hurricanes Charley, Frances, Jeanne, and Ivan, by Progress Energy Florida, Inc.</u>, and also particularly in light of the newly available tools created by Senate Bill 1366, commonly known as the "Securitization Legislation," enacted by the Florida Legislature and signed into law by Governor Bush. PEF's annual accrual to the storm damage reserve should be limited to $15.2 million and the requested increase in base rates should be reduced by $31.125 million.

4. PEF has improperly included $82.1 million of Construction Work in Progress ("CWIP") in rate base, even though such inclusion is not necessary to satisfy the Commission's financial integrity criteria. Properly removing CWIP from rate base reduces PEF's Test Year revenue requirement by $12.7 million.

5. PEF's revenue requirement for the 2006 test year should be reduced by numerous other adjustments, including but not limited to the following:

a. PEF has overstated the number of employees for the Test Year. Correcting this overstatement reduces PEF's Test Year revenue requirement by $2.235 million.

b. PEF has improperly included incentive compensation to its service company affiliate in its claimed costs for determining rates. Removing this inappropriate incentive compensation expense will reduce PEF's Test Year revenue requirement by $4.983 million. PEF has also improperly included excessive incentive compensation to PEF employees; removing excessive compensation will further reduce PEF's Test Year revenue requirement by $7.143 million.

c. PEF has inappropriately included a portion of capitalized payroll taxes in its Test Year expenses, resulting in an overstatement of its jurisdictional revenue requirement. Removing this inappropriately claimed expense will reduce PEF's Test year revenue requirement by $6.095 million.

d. PEF has overstated its base pay expense ratio, resulting in an additional overstatement of its revenue requirement. Correcting for this overstatement results in a decrease in PEF's Test Year revenue requirement of $6.626 million.

e. Based on PEF's prior estimates vs. actual expenditures on distribution reliability initiatives, the Commission should disallow $10.038 million of PEF's requested incremental distribution reliability Test Year expenses, which will result in a reduction of PEF's Test Year revenue requirement by $10.014 million.

f. Based on PEF's prior estimates vs. actual expenditures on transmission reliability initiatives, the Commission should disallow $2.189 million of PEF's requested incremental transmission reliability Test Year expenses, which will result in a reduction of PEF's Test Year revenue requirement by $1.564 million.

g. PEF recently sold its distribution facilities in the City of Winter Park, Florida to the City at a gain, yet PEF failed to include amortization of that gain as an offset to its Test Year revenue requirement. Appropriately amortizing the gain over 2 to 5 years results in a reduction in PEF's Test Year revenue requirement of between $5.96 million and $14.9 million.

h. PEF has overstated its bad debt expense. Correcting for this overstatement reduces PEF's Test Year revenue requirement by $1.162 million.

i. In removing the retail jurisdiction storm damage asset from rate base because of its inclusion in the Storm Damage Cost Recovery clause, PEF incorrectly allocated a portion of the asset to the wholesale jurisdiction. Correcting the allocation results in a reduction in PEF's Test Year revenue requirement of $1.973 million.

j. PEF has inappropriately included $2.25 million in working capital associated with deferred rate case expenses. Correcting for this inappropriate claim reduces PEF's Test Year revenue requirement by $348,618.

k. PEF has deferred $1.5 million of rate case expenses and has included these expenses in the Test Year revenue requirement. PEF's current year earnings are sufficient to cover these rate case expenses; therefore, the deferral of the expenses into the Test Year should be disallowed and the Test Year revenue requirement should be reduced by $1.5 million.

l. PEF has overstated its reasonable health care expenses. Correcting for this overstatement reduces PEF's Test Year revenue requirement by $2.767 million.

m. PEF has inappropriately claimed directors' and officers' liability insurance as a Test Year expense. Removing this expense item reduces PEF's Test Year revenue requirement by $1.8 million.

E. <u>STATEMENT OF ISSUES AND POSITIONS:</u>

The following are the AG's positions at this time on the issues identified in this case. The AG reserves the right to take different positions based on all of the evidence of record following the hearing in this case.

TEST YEAR AND FORECASTING

ISSUE 1: Is PEF's projected test period of the twelve months ending December 31, 2006 appropriate?

AG: No position at this time.

ISSUE 2: Are PEF's forecasts of customer growth, KWH by revenue class, and system KW for the projected test year appropriate?

AG: No position at this time.

ISSUE 3: Are PEF's forecasts of billing determinants by rate class for the projected test year appropriate?

AG: No position at this time.

QUALITY OF SERVICE

ISSUE 4: Is the quality and reliability of electric service provided by PEF adequate?

AG: The quality and reliability of electric service provided by PEF is neither superior nor outstanding and does not warrant any additional compensation, in any form, to PEF.

ISSUE 5: Is PEF's customer complaint resolution process adequate?

AG: No position at this time.

ISSUE 6: Is PEF's pole inspection, repair, and replacement program sufficient for the purpose of providing reasonable transmission and distribution service?

AG: No position at this time.

ISSUE 7: Is PEF's vegetation management program sufficient for the purpose of providing reasonable transmission and distribution service?

Are PEF's vegetation management and animal and pest control programs sufficient for the purpose of providing reasonable transmission and distribution service? (White Springs' issue)

AG: No position at this time regarding the adequacy of PEF's vegetation management programs. PEF has not justified its requested increase in vegetation management expenses for the Test Year.

ISSUE 8: Pursuant to the requirements of Order No. PSC-02-0655-AS-EI, did PEF achieve a 20 percent distribution reliability improvement for 2004 compared to its performance in 2000?

AG: No position at this time. The AG agrees with OPC that, even if PEF satisfied the earlier Order's mandate, such achievement does not justify additional compensation of any kind to PEF. Rather, PEF will simply have done what it was supposed to have done in compliance with the earlier Order, namely, complied with its statutory mandate to provide safe, adequate, sufficient, and reliable service.

DEPRECIATION STUDY

ISSUE 9: What should be the implementation date for PEF's depreciation rates and recovery/amortization schedules?

AG: The implementation date should correspond to the effective date for rates set by the Commission at the conclusion of this case, which the AG expects to be January 1, 2006.

ISSUE 10: For each of the depreciation accounts shown in Progress Energy Florida's Exhibit No. RHB-7, Volume 1- 3, and summarized depreciation rates in Exhibit JP-4, pages 1-9:

(a) Has PEF employed an appropriate average service life, survivor curve, and/or reserve percentage in the calculation of the depreciation rate? If not, what is the appropriate factor(s), and what is the impact, if any, on (i) the depreciation rate and (ii) PEF's depreciation reserve? Provide a position for each affected account.

(b) Has PEF employed the appropriate net salvage factor in the calculation of the proposed depreciation rate? If not, what is the appropriate factor, and what is the impact, if any, on (i) the depreciation rate and (ii) the deprecation reserve? Provide a position statement for each affected account.

AG: No position at this time on Issue 10(a). Agree with OPC on Issue 10(b).

<u>ISSUE 11</u>: Based on the relationship between current depreciation parameters as approved by the Commission in this case and PEF's book reserve, what is PEF's depreciation reserve posture? How should PEF's reserve position be treated for ratemaking purposes?

<u>AG</u>: PEF's depreciation reserve has an excess of $1.2 billion, which can only be characterized as a "very high excess" posture. Agree with OPC as to the amount and as to the treatment of this very high excess position for ratemaking purposes.

<u>ISSUE 12</u>: Is PEF's $250 million accrued debit to the bottom line reserve balance allocation appropriate based upon the approved settlement agreement in Order No. PSC-02-0655-AS-EI?

<u>AG</u>: Agree with OPC.

<u>ISSUE 13</u>: Based on the decisions on foregoing issues, what are the appropriate depreciation rates and recovery/amortization schedules?

<u>AG</u>: Agree with OPC.

<u>ISSUE 14</u>: Should the current amortization of investment tax credits and flow back of excess deferred income taxes be revised to reflect the approved depreciation rates and recovery schedules?

<u>AG</u>: Agree with OPC.

<u>FOSSIL DISMANTLEMENT COST STUDY</u>

<u>ISSUE 15</u>: Should PEF's currently approved annual fossil dismantlement accrual be revised?

<u>AG</u>: No position at this time.

<u>ISSUE 16</u>: Should any reserve allocations be made within the fossil dismantlement accounts?

<u>AG</u>: No position at this time.

<u>ISSUE 17</u>: What is the appropriate annual accrual for PEF's fossil dismantlement?

AG: No position at this time.

NUCLEAR DECOMMISSIONING COST STUDY

ISSUE 18: Should the currently approved annual nuclear decommissioning accruals for PEF be revised?

AG: Agree with OPC.

ISSUE 19: Should a contingency allowance be applied to the estimated cost of nuclear decommissioning and if so, what percentage contingency should be used?

AG: Agree with OPC.

ISSUE 20: Should the total estimated cost of nuclear decommissioning include a provision for on-site storage of spent fuel beyond the termination of the operating license of Crystal River Unit 3?

AG: Agree with OPC.

ISSUE 21: Is the Nuclear Decommissioning Trust Fund appropriately funded? If not, what adjustments, if any, should be made to the balance?

AG: No. Agree with OPC that PEF's Nuclear Decommissioning Trust Fund is overfunded by approximately $130 million, and that this excess of $130 million should be flowed back to customers over 4 years.

ISSUE 22: What should be the effective date for adjusting PEF's annual accrual for nuclear decommissioning?

AG: On the effective date for rates set at the conclusion of this docket, which the AG expects to be January 1, 2006, PEF's annual accrual for nuclear decommissioning should be set to zero.

ISSUE 23: What is the appropriate disposition of the accumulated balance of nuclear amortization?

AG: Agree with OPC.

ISSUE 24: Is the annual accrual to the nuclear maintenance reserve reasonable?

AG: No position at this time.

RATE BASE

ISSUE 25: Are the projected balances of plant in service accurate and reasonable?

AG: No. Agree with OPC.

ISSUE 26: Is the inclusion of and the amount of electric plant acquisition adjustment included in rate base appropriate?

AG: No position at this time.

ISSUE 27: Should PEF's proposed change in capitalization policy be approved? If the answer is yes, has PEF adequately supported and proven the impact of the change on the 2006 test year?

AG: No. Agree with OPC.

ISSUE 28: Are any modifications to past PEF financial statements required as a result of the consideration of the proposed change in capitalization policy? If so, what are the effects, if any, on the 2006 test year?

AG: Agree with OPC.

ISSUE 29: What adjustment should be made to test year plant in service related to Hines Unit 2?

AG: The plant in service allowed for Hines Unit 2 should be no greater than $198 million, which is the value that PEF's predecessor, Florida Power Corporation, represented to the Commission as being "the total installed for Hines 2," as reflected at page 7 of Commission Order No. PSC-01-0029-FOF-EI.

ISSUE 30: Are the capital costs associated with the Hines Unit 3 generating unit appropriate?

AG: The plant in service for Hines Unit 3 should be no greater than $258 million, which is the value that PEF's predecessor, Florida Power Corporation, represented to the Commission as being the "total installed cost for Hines Unit 3," as reflected at page 6 of Commission Order No PSC-03-0175-FOF-EI.

ISSUE 31: Are any adjustments to rate base necessary to reflect any impacts of the sale or disposition of the electric distribution system to the City of Winter Park?

AG: Yes. Moreover, the gain on the sale of PEF's Winter Park electric distribution system to the City of Winter Park should be amortized over no more than 5 years, in which case PEF's Test Year revenue requirement would be reduced by $5.96 million. The Commission should also consider amortizing the gain over 2 years to offset the cost-shifting of hurricane damage costs from customers in Winter Park to remaining PEF customers; amortizing the gain over 2 years would reduce PEF's Test year revenue requirement by $14.9 million.

ISSUE 32: Should adjustments be made for the rate base effects of PEF's transactions with affiliated companies?

AG: No position at this time.

ISSUE 33: Should the capitalized items currently approved for recovery through the Environmental Cost Recovery Clause be included in rate base?

AG: Yes.

ISSUE 34: How should the Commission's decision in PEF's storm damage docket be reflected in this case?

AG: Agree with OPC. Moreover, the significant reduction in PEF's business risk that results directly from the Commission's decision in PEF's storm damage docket provides additional grounds for rejecting PEF's inflated equity ratio in its capital structure and for substantially reducing PEF's requested ROE to a level that more accurately reflects the very limited risks that PEF actually faces.

ISSUE 35: What adjustments should be made to test year rate base to account for Mobile Meter Reading equipment?

AG: None. Agree with OPC.

ISSUE 36: Is PEF's requested level of Plant in Service in the amount of $8,363,233,000 ($9,029,628,000 system) for the projected test year appropriate? This is a calculation based upon the decisions in preceding issues.

AG: No. Agree with OPC that the proper level of PEF's Plant in Service is $8,259,075,000.

ISSUE 37: Are the projected balances of accumulated depreciation accurate and reasonable?

AG: No. Agree with OPC.

ISSUE 38: Is PEF's requested level of Accumulated Depreciation and Accumulated Amortization in the amount of $4,051,946,000 ($4,394,317,000 system) for the projected test year appropriate? This is a calculation based upon the decisions in preceding issues.

AG: No. Agree with OPC.

ISSUE 39: Is PEF's requested level of CWIP in the amount of $82,105,000 ($244,471,000 system) for the projected test year appropriate?

Is PEF appropriately accruing AFUDC on CWIP for the projected test year? (White Springs' issue)

AG: No. No CWIP should be allowed in rate base because, consistent with Commission precedent, no CWIP is necessary to satisfy the Commission's financial integrity criteria. Rate base should be reduced by $82.105 million and the Test Year revenue requirement should correspondingly be reduced by $12.7 million.

ISSUE 40: Is PEF's requested level of Property Held for Future Use in the amount of $6,054,000 ($7,921,000 system) for the projected test year appropriate?

AG: No. Agree with OPC.

ISSUE 41: What adjustment, if any, should be made to the test year rate base concerning nuclear decommissioning?

AG: No position at this time.

ISSUE 42: What adjustments, if any, should be made to the projected test year rate base to account for spent nuclear fuel storage?

AG: No position at this time.

ISSUE 43: **WITHDRAWN.**

ISSUE 44: Has PEF reflected the appropriate accumulated provision for uncollectibles?

AG: No position at this time.

ISSUE 45: **WITHDRAWN.**

ISSUE 46: **WITHDRAWN.**

ISSUE 47: What adjustment, if any, should be made to recoverable job orders that PEF included in working capital?

AG: PEF's adjustment to increase working capital by $26,567,000 to remove recoverable job orders should be reversed. To properly reflect this removal, PEF's working capital should be reduced by double the Company's adjustment, i.e., by $53,134,000 on a total company basis and by $43,267,000 on a jurisdictional basis.

ISSUE 48: What is the appropriate cash balance that the Commission should include in working capital?

AG: Agree with OPC that PEF's cash balance in working capital should be reduced by $11,357,000 on a total company basis and by $10,317,000 on a jurisdictional basis.

ISSUE 49: What adjustment, if any, should the Commission make to the accounts receivable from associated companies that PEF included in working capital?

AG: Agree with OPC.

ISSUE 50: What amount of total unbilled revenue should be allocated to the jurisdictional retail customers for purposes of computing allowable working capital?

Is the method used by PEF for calculating the increase in unbilled revenues by rate class appropriate?

AG: No position at this time.

ISSUE 51: What is the appropriate amount of derivative assets, if any, that the Commission should allow to be included in working capital?

What adjustments, if any, should be made to projected test year rate base to recognize implementation of Statement of Financial Accounting Standards Nos. (FAS) 133/137, Accounting for Derivative Instruments and Hedging Activities? WCA

AG: Agree with OPC.

ISSUE 52: What is the appropriate amount of employees' receivables, if any, that the Commission should allow to be included in working capital?

AG: Agree with OPC.

ISSUE 53: What adjustment, if any should be made to the unamortized rate case portion of PEF's proposed working capital?

Should unamortized rate case expense be included in working capital, and if so, what is the appropriate amount?

AG: The entire balance of PEF's unamortized rate case expenses in the amount of $2.25 million should be removed from PEF's working capital. Costs associated with PEF's current rate case should be expensed as incurred in 2005 and not deferred into 2006 or any other future period. The impact of removing this amount from rate base is a reduction in PEF's Test Year revenue requirement of $348,618 (in addition to the $1.5 million of claimed deferred rate case expense that should be disallowed).

ISSUE 54: What adjustment, if any, should be made to the prepaid advertising expense portion of PEF's proposed working capital?

AG: Agree with OPC.

ISSUE 55: Should an adjustment be made to prepaid pension expense? (White Springs' issue)

AG: No position at this time.

ISSUE 56: Should an adjustment be made to working capital to exclude prepaid interest? (White Springs' issue)

AG: No position at this time.

ISSUE 57: Should adjustments be made to working capital to exclude the vacation pay accrual asset? (White Springs' issue)

AG: No position at this time.

ISSUE 58: Should an adjustment be made to working capital for unfunded Other Post-retirement Employee Benefit (OPEB) liability? (White Springs' issue)

AG: No position at this time.

ISSUE 59: Has PEF properly included in its working capital two turbines that PEF intends to install in Hines Unit 4?

AG: No. Agree with OPC that PEF's purchase of two turbines purchased to be used in Hines Unit 4 should have been charged to CWIP that accrued AFUDC, rather than to materials and supplies. The result is that PEF's working capital should be reduced by $43.262 million on a jurisdictional basis.

ISSUE 60: Should other accounts receivable be reduced to exclude loans to employees?

AG: Yes.

ISSUE 61: Should an adjustment be made to working capital to exclude prepayments for non-utility advertising?

AG: Yes. Agree with OPC.

ISSUE 62: Should working capital for the projected test year be adjusted for interest on tax deficiencies?

AG: No position at this time.

ISSUE 63: Should an adjustment be made to Accrued Taxes Payable and Tax Collections Payable in working capital?

AG: No position at this time.

ISSUE 64: Should the net overrecovery/underrecovery of fuel, capacity, conservation, and environmental cost recovery clause expenses for the test year be included in the calculation of working capital allowance for PEF?

AG: Agree with OPC.

ISSUE 65: Is PEF's level of Account 151, Fuel Stock, in the amount of $126,077,000 ($138,356,000 system) for the projected test year appropriate?

What adjustments, if any, should be made to PEF's fuel inventories?

AG: No position at this time.

ISSUE 66: What adjustment, if any, should be made to test year working capital to account for costs related to the transfer of fuel procurement and transportation operations from Progress Fuels Corporation to PEF?

AG: No position at this time.

ISSUE 66A: Are any additional adjustments to working capital not covered under other issues appropriate?

AG: Yes. Agree with OPC that other investments are not utility-related and should receive a rate of return from some other source. Therefore, working capital should be reduced by $550,000 ($500,000 jurisdictional) to remove these investments from working capital.

ISSUE 67: Has PEF properly estimated the amount of storm damage reserve that will be available for the projected test year?

AG: No. Agree with OPC.

ISSUE 68: Has PEF accounted for its Asset Retirement Obligations in accordance with Rule 25-14.014, F.A.C., Accounting for Asset Retirement Obligations under SFAS 143, such that it is revenue neutral?

AG: No position at this time.

ISSUE 69: Is PEF's requested level of Working Capital Allowance in the amount of $183,593,000 ($220,083,000 system) for the projected test year appropriate? This is a calculation based upon the decisions in preceding issues.

AG: No. Agree with OPC.

ISSUE 70: What is the appropriate reserve goal for Account 228.1, Accumulated Provision for Property Insurance – Storm Damage?

AG: Agree with OPC.

ISSUE 71: Are any adjustments to rate base necessary to reflect the impacts of the sales or disposition of assets resulting from the exercising of the purchase options in expired or expiring franchise agreements?

AG: Yes. See the AG's position on Issue 31.

ISSUE 72: Is PEF's requested level of Rate Base in the amount of $4,640,452,000 ($5,277,387,000 system) for the projected test year appropriate? This is a calculation based upon the decisions in preceding issues.

AG: No. Agree with OPC.

COST OF CAPITAL

ISSUE 73: Has PEF appropriately treated deferred income tax debit balances and deferred tax asset balances in its proposed capital structure? If not, what adjustments are needed?

AG: No. Agree with OPC.

ISSUE 74: What is the appropriate amount of accumulated deferred taxes to include in the capital structure?

AG: Agree with OPC.

ISSUE 75: What is the appropriate amount and cost rate of the unamortized investment tax credits to include in the capital structure?

AG: Agree with OPC.

ISSUE 76: Has FAS 109 been appropriately reflected in the capital structure, such that it is revenue neutral?

AG: Agree with OPC.

ISSUE 77: What is the appropriate cost rate for short-term debt for the projected test year?

AG: Agree with OPC.

ISSUE 78: What is the appropriate cost rate for long-term debt for the projected test year?

AG: Agree with OPC.

ISSUE 79: In setting PEF's return on equity (ROE) for use in establishing PEF's revenue requirements and authorized range, should the Commission make an adjustment to reflect PEF's performance?

Commercial Group's suggested language: In setting PEF's return on equity (ROE) for use in establishing PEF's revenue requirements and authorized range, is PEF's performance superior to that of other similar electric utilities and if so, should the Commission make an adjustment to reflect PEF's performance?

AG: No. No "adder" to PEF's ROE for use in establishing PEF's revenue requirement is warranted, and no addition to PEF's otherwise "fair" ROE should be allowed. PEF's performance is not superior to that of other similar utilities. Additionally, PEF's costs to customers are among the highest in the Southeast for a substantial range of residential, commercial, and industrial usage characteristics.

ISSUE 80: What is the appropriate cost rate for common equity to use in establishing PEF's revenue requirement for the projected test year?

AG: Between 8.8% and 9.1%.

ISSUE 81: When determining the appropriate capital structure for PEF for ratemaking purposes, to what extent, if any, should the Commission base its determination on the capital structure of holding company Progress Energy?

AG: The Commission and PEF should recognize that the rating agencies decisions are based on the holding company's capital structure and, therefore, PEF's recommended adjustments to increase the equity component of the PEF's capital structure should be disallowed.

ISSUE 82: Should adjustments be made for the capital structure effects of PEF's transactions with affiliated companies?

AG: Agree with OPC.

ISSUE 83: Should the Commission approve PEF's request to impute additional common equity in its capital structure for ratemaking purposes to adjust for PEF's power purchase contracts?

Is PEF's proposal to impute common equity to balance off-balance sheet debt reasonable?

AG: No. Agree with OPC.

ISSUE 84: When determining the appropriate capital structure, should the Commission accept PEF's adjustment to reflect the impact of the 1996 settlement of Crystal River 3 outage issues?

AG: No. PEF's claimed equity adjustment relative to the 1997 Crystal River 3 outage costs is not necessary to maintain an appropriate equity ratio, and this adjustment should be discontinued.

ISSUE 85: When determining the appropriate capital structure, should the Commission accept PEF's proposal to exclude commercial paper associated with unrecovered fuel cost?

AG: No. Agree with OPC.

ISSUE 86: What is the appropriate capital structure for PEF?

AG: Agree with OPC.

ISSUE 87: What is the appropriate weighted average cost of capital including the proper components, amounts and cost rates associated with the capital structure? This is a calculation based upon the decisions in preceding issues.

AG: Agree with OPC.

NET OPERATING INCOME

ISSUE 88: Are PEF's estimated revenues for sales of electricity by rate class appropriate?

AG: No position at this time.

ISSUE 89: Are PEF's estimated other operating revenues appropriate?

AG: No position at this time.

ISSUE 90: Are any adjustments to net operating income necessary due to Winter Park's purchase of PEF's electric distribution system within Winter Park?

AG: Yes. PEF's net operating income should be increased by amortization of the gain on the sale to Winter Park. The gain should be amortized over a two-year period to offset the impact to PEF's remaining retail customers from having to absorb Winter Park's share of the storm damage costs that are being recovered through the Storm Damage Cost Recovery Clause. Further, the Commission should require PEF to demonstrate the level of operating and maintenance expenses that should be reduced as a result of the sale, as well as any rate base effects from selling the assets.

ISSUE 91: Has PEF made the appropriate adjustments to remove fuel revenues, expenses and revenue taxes recoverable through the Fuel Adjustment Clause?

AG: No position at this time.

ISSUE 92: Has PEF made the appropriate adjustments to remove the capacity cost revenues, expenses and revenue taxes recoverable through the Capacity Cost Recovery Clause?

AG: No position at this time.

ISSUE 93: Has PEF made the appropriate adjustments to remove environmental revenues, expenses and revenue taxes recoverable through the Environmental Cost Recovery Clause?

AG: No position at this time.

ISSUE 94: Has PEF made the appropriate adjustments to remove conservation revenues, expenses and taxes recoverable through the Conservation Cost Recovery Clause?

AG: No position at this time.

ISSUE 95: Has PEF properly removed Off-System Sales revenues, expenses and taxes other for wholesale sales and included retail for the projected test year?

AG: No position at this time.

ISSUE 96: Is PEF's requested level of Total Operating Revenues in the amount of $1,482,222,000 ($1,615,187,000 system) for the projected test year appropriate?

AG: Agree with OPC.

ISSUE 97: What adjustments, if any, should be made to Generation O&M expenses?

AG: No position at this time.

ISSUE 98: What adjustment should be made to test year O&M related to Hines Unit 2?

AG: No position at this time.

ISSUE 99: Are the O&M costs associated with the Hines Unit 3 generating unit appropriate?

AG: No position at this time.

ISSUE 100: What adjustment should be made to test year expenses to account for A&G expense related to the transfer of fuel procurement and transportation operations from Progress Fuels Corporation to a new consolidated organization?

AG: No position at this time.

ISSUE 101: Are PEF's recently implemented capitalization policies reasonable and appropriate? Did PEF accurately reflect the impact of the change in policy in its filing? What adjustments to operating income are necessary to reflect an appropriate capitalization policy?

AG: No. Agree with OPC.

ISSUE 102: Should an adjustment be made to PEF's requested level of security expense related to the increased threat of terrorist attacks since September 11, 2001?

AG: No position at this time.

ISSUE 103: Are the costs included in the projected test year for incentive compensation and employee bonuses reasonable and appropriate? Should all of the projected incentive compensation and bonus costs be funded by ratepayers?

AG: No. The incentive compensation costs included by PEF in the test year are not reasonable or appropriate. Incentive compensation to PEF employees should be reduced by $7.143 million (jurisdictional), and incentive compensation to employees of PEF's service company affiliate should be eliminated, which will reduce PEF's test year revenue requirement by $4.983 million (jurisdictional).

ISSUE 104: Is the employee complement included in the projected test year accurate and reasonable? If no, what adjustments, if any, are necessary?

AG: No. PEF has overstated its Test Year employee complement. To correct this overstatement, PEF's Test Year jurisdictional revenue requirement should be reduced by $2.235 million.

ISSUE 104A: Is the amount of payroll expense included in the projected test year reasonable and appropriate?

AG: No. The payroll expense was overstated by $2.235 million due to overstatement of employees (issue 104). Further, the Company's projected base pay expense ratio was overstated, resulting in an overstatement of the Test Year revenue requirement of $6.626 million, which should, accordingly, be disallowed.

ISSUE 105: Has PEF made the proper adjustment to remove the effect of vacancies on the labor complement?

AG: No. PEF has overstated its Test Year employee complement. To correct this overstatement, PEF's Test Year jurisdictional revenue requirement should be reduced by $2.235 million.

ISSUE 106: Should an adjustment be made to reduce costs related to temporary staff?

AG: No position at this time.

ISSUE 107: Should an adjustment be made to employee relocation expense for the projected test year?

AG: No position at this time.

ISSUE 108: Should an adjustment be made for new employees hired and the related moving expenses?

AG: No position at this time.

ISSUE 109: Is the level of overhead cost allocations for the projected test year appropriate?

AG: No position at this time.

ISSUE 110: Should an adjustment be made to Account 926, Employee Benefits, for the projected test year?

AG: Yes. Agree with OPC.

ISSUE 111: Is PEF's projected test year accrual for medical/life reserve-active employees and retirees appropriate?

AG: No position at this time.

ISSUE 112: Is PEF's requested level of Other Post Employment Benefits Expense for the projected test year appropriate?

AG: No position at this time.

ISSUE 113: Are the amounts included in the projected test year for costs allocated to PEF from affiliated companies reasonable and appropriate?

AG: No. Agree with OPC.

ISSUE 114: Has PEF made the appropriate adjustment to remove non-utility expenses?

Has PEF properly allocated expenses between regulated and non-regulated operations?

AG: No position at this time.

ISSUE 115: Are all impacts of the Cost Management Initiative appropriately reflected in the projected test year?

AG: No position at this time.

ISSUE 116: What adjustments, if any, should be made to Transmission O&M expenses?

AG: PEF's Transmission O&M expenses for the Test Year should be reduced by $1.564 million (jurisdictional).

ISSUE 117: What adjustment, if any, should be made to PEF's proposed level of vegetation management expense?

AG: Agree with OPC.

ISSUE 118: Should an adjustment be made to street and outdoor light maintenance expense?

AG: No position at this time.

ISSUE 119: What adjustments, if any, should be made to Distribution O&M expenses?

AG: PEF's Distribution O&M expense for the Test Year should be reduced by $10.014 million, based on PEF's record of prior years' expenditures being significantly below the amounts that PEF had represented to the Commission.

ISSUE 120: What adjustment should be made to test year expenses to account for Mobile Meter Reading expense savings?

AG: None. Agree with OPC.

ISSUE 121: Should an adjustment be made to Account 904, Uncollectible Accounts, for the projected test year and what is the appropriate factor to include in the revenue expansion factor?

AG: Yes. Agree with OPC.

ISSUE 122: Should an adjustment be made to remove image building or other advertising expenses?

AG: No position at this time.

ISSUE 123: Should an adjustment be made for economic development activities? (930)

AG: No position at this time.

ISSUE 124: Are industry association dues included in the projected test year and, if so, should an adjustment be made to remove them?

AG: No position at this time.

ISSUE 125: Has PEF budgeted to fund the NEI Utility Waste Management Group, and if so, should an adjustment be made to remove it?

AG: No position at this time.

ISSUE 126: Should an adjustment be made to remove a portion of EEI dues?

AG: No position at this time.

ISSUE 127: Has PEF made the appropriate adjustments to remove charitable contributions?

AG: No position at this time.

ISSUE 128: Should an adjustment be made to Account 912, Demonstrating and Selling Expenses for the projected test year?

Are sales expenses appropriately allocated to the retail jurisdiction? (Accts. 911-917)

AG: No position at this time.

ISSUE 129: Should an adjustment be made to Insurance Expense for the projected test year? (926)

a. What is the appropriate amount of NEIL distribution to be included in the test year?

b. What amount of directors and officers liability insurance costs should be included in the test year?

AG: Yes. Directors' and officers' liability insurance costs should be disallowed in their entirety.

a. Agree with OPC.

b. Zero. Agree with OPC.

ISSUE 130: Is PEF's requested $50,000,000 annual accrual for storm damage for the projected test year appropriate?

AG: No. Agree with OPC.

ISSUE 131: Should an adjustment be made to Account 928, Regulatory Commission Expense, for rate case expense for the projected test year and what is the appropriate amortization period?

AG: Yes. PEF should not be allowed to recover any rate case expenses for the projected Test Year, and Test Year expenses should accordingly be reduced by $1.5 million. If the Commission, contrary to the recommendations of OPC's and the FRF's witnesses, allows any rate case expense, the Commission should disallow costs associated with excessive hourly billing rates, and the proper amortization period would be at least 4 years.

ISSUE 132: Should the costs currently recovered through the Environmental Cost Recovery Clause be recovered through base rates pursuant to Section 366.8255(5), Florida Statutes?

AG: Agree with OPC.

ISSUE 133: Is PEF's O&M Expense of $612,136,000 ($673,859,000 system) for the projected test year appropriate? This is a calculation based upon the decisions in preceding issues.

AG: No. Agree with OPC.

ISSUE 134: What adjustments, if any, should be made to PEF's projected test year net operating income to account for spent nuclear fuel O&M expenses?

AG: No position at this time.

ISSUE 135: What adjustments, if any, should be made to the projected test year expenses to recognize implementation of FAS 143, Accounting for Asset Retirement Obligations?

AG: No position at this time.

ISSUE 136: What adjustments, if any, should be made to the projected test year expenses to recognize implementation of FAS 133/137, Accounting for Derivative Instruments and Hedging Activities?

AG: No position at this time.

ISSUE 137: What adjustment, if any, should the Commission make to the test year Depreciation and Amortization Expense that PEF included in its filing? This is a calculation based upon the decisions in preceding issues.

AG: Agree with OPC.

ISSUE 138: Are any adjustments to the projected test year amortization of the net gain on sale of assets appropriate?

AG: Yes. PEF's test year amortization of the net gain on sale of assets should be increased by at least $5.96 million to account for the gain on sale of PEF's Winter Park distribution facilities. The Commission should also consider a more rapid amortization, over 2 years, to account for the fact that the Winter Park customers will no longer be included in the retail customer base who are paying PEF's storm cost recovery charge, with the result that those costs will be transferred to the remaining PEF customers. If the Commission amortizes the gain on the Winter Park sale over 2 years, the reduction to PEF's Test Year revenue requirement is $14.9 million.

ISSUE 139: Should interest on tax deficiencies for the projected test year be included above-the-line?

AG: No position at this time.

ISSUE 140: Is PEF's Taxes Other Than Income of $113,631,000 ($122,653,000 system) for the projected test year appropriate?

AG: No. Agree with OPC.

ISSUE 141: Should a Parent Debt Adjustment be made for the projected test year and if so, what is the appropriate amount of the adjustment?

AG: No position at this time.

ISSUE 142: Has PEF appropriately calculated the adjustment to taxable income to reflect the domestic manufacturer's tax deduction which was attributable to the American Jobs Creation Act?

AG: No position at this time. Agree with OPC's concern that the impact of the American Jobs Creation Act was not reflected in PEF's NOI multiplier.

ISSUE 143: Are consolidating tax adjustments appropriate, and if so, what are the appropriate amounts for the projected test year for PEF?

AG: No position at this time.

ISSUE 144: Is PEF's Income Tax Expense of $210,164,000 ($229,517,000 system) which includes current and deferred income taxes and interest reconciliation for the projected test year appropriate?

AG: No. Agree with OPC.

ISSUE 145: Is PEF's projected Total Operating Expenses of $1,167,239,000 ($1,270,623,000 system) for the projected test year appropriate? This is a calculation based upon the decisions in preceding issues.

AG: No. Agree with OPC.

ISSUE 146: Is PEF's Net Operating Income of $314,983,000 ($344,564,000 system) for the projected test year appropriate? This is a calculation based upon the decisions in preceding issues.

AG: No. Agree with OPC.

REVENUE REQUIREMENTS

ISSUE 147: What is the appropriate projected test year revenue expansion factor and the appropriate net operating income multiplier, including the appropriate elements and rates for PEF?

AG: Agree with OPC.

ISSUE 148: What is PEF's annual operating revenue requirement for the projected 2006 test year?

AG: Agree with OPC.

ISSUE 149: Is PEF's proposed increase of $206,000,000 for the projected test year appropriate? This is a calculation based upon the decisions in preceding issues.

AG: Agree with OPC.

COST OF SERVICE AND RATE DESIGN

ISSUE 150: Is PEF's proposed separation of costs and revenues between the wholesale and retail jurisdictions appropriate?

AG: No position at this time.

ISSUE 151: What is the appropriate cost of service study to be used in designing PEF's rates?

AG: No position at this time.

ISSUE 152: How should any change in revenue requirements approved by the Commission be allocated among the customer classes?

AG: No position at this time.

ISSUE 153: What are the appropriate demand charges?

AG: No position at this time.

ISSUE 154: What are the appropriate energy charges?

AG: No position at this time.

ISSUE 155: What are the appropriate customer charges?

AG: No position at this time.

ISSUE 156: What are the appropriate service charges?

AG: No position at this time.

ISSUE 157: What are the appropriate lighting rate schedule charges?

AG: No position at this time.

ISSUE 158: What are the appropriate premium distribution service charges?

AG: No position at this time.

ISSUE 159: What are the appropriate delivery voltage credits?

AG: No position at this time.

ISSUE 160: What are the appropriate power factor charges and credits?

AG: No position at this time.

ISSUE 161: What is the appropriate lump sum payment for time-of-use metering costs?

AG: No position at this time.

ISSUE 162: What are the appropriate monthly fixed charge carrying rates to be applied to the installed cost of customer-requested distribution equipment, lighting service fixtures, and lighting service poles for which there are no tariffed charges?

AG: No position at this time.

ISSUE 163: What are the appropriate charges and credits under the Firm, Interruptible, and Curtailable Standby Service rate schedules?

AG: No position at this time.

ISSUE 164: What is the appropriate level for the interruptible credit for PEF's industrial customers?

AG: No position at this time.

ISSUE 165: Should the Commission approve PEF's proposal to eliminate its IS-1, IST-1, CS-1 and CST-1 rate schedules and transfer the current customers to otherwise applicable rate schedules?

AG: No position at this time.

ISSUE 166: Should the Commission approve a Real Time Pricing rate schedule for PEF? (Commercial Group's issue)

AG: No position at this time.

ISSUE 167: Should the Commission approve PEF's proposal to make its Commercial/Industrial Service Rider pilot program permanent?

AG: No position at this time.

ISSUE 168: Should the Commission approve PEF's proposal to eliminate the special provision in its Lighting Service rate schedule that allows customers to make an up-front lump sum payment for lighting facilities?

AG: No position at this time.

ISSUE 169: Should the Commission approve PEF's proposal to increase the minimum term of service under its Lighting Service rate schedule from six to ten years?

AG: No position at this time.

ISSUE 170: What is the appropriate effective date for PEF's revised rates and charges?

AG: January 1, 2006.

ISSUE 171: Is PEF's allocation of costs among customer classes appropriate?

AG: No position at this time.

ISSUE 172: Should a delivery level be added for primary level customers with minimal or no PEF-owned distribution equipment?

AG: No position at this time.

OTHER ISSUES

ISSUE 173: Should the Commission approve PEF's request to move into base rates the security costs that result from heightened security requirements since September 11, 2001 from Capacity Cost Recovery Clause?

AG: Yes.

ISSUE 174: Should PEF continue to seek recovery of incremental security costs above the amount included in base rates through the Capacity Cost Recovery Clause? If so, what mechanism should be used to determine the incremental security costs?

AG: No position at this time.

ISSUE 175: Should PEF be allowed to recover incremental hedging costs in excess of its base rate amount through the Fuel and Purchased Power Cost Recovery Clause, and if so, should netting be required in the clause for these costs?

AG: No. Hedging costs and profits should be dealt with in the Fuel and Purchased Power Cost Recovery docket.

ISSUE 176: What is the appropriate resource mix for both PEF's generation fleet and PEF's purchased power commitments?

AG: No position at this time.

ISSUE 177: Should any incentives be placed on PEF to improve generation plant fuel efficiency?

AG: No position at this time.

ISSUE 178: Should PEF be required to bear any fuel price related risk?

AG: No position at this time.

ISSUE 179: Has Progress Energy realized the cost savings and efficiencies promised at the time of the merger?

AG: No position at this time.

ISSUE 180: Are PEF's claimed legal expenses reasonable and appropriate?

AG: No position at this time.

ISSUE 181: Are PEF's conservation programs and their administration reasonable and appropriate?

AG: No position at this time.

ISSUE 182: Has PEF adequately demonstrated that its compensation and benefit plans are reasonable?

AG: No. In particular, PEF has failed to demonstrate: (a) that its claimed incentive compensation plans, both for PEF and for PEF's service company affiliate, are reasonable and prudent; (b) that its health care expenses are reasonable and prudent; and (c) that its directors and officers compensation plans are reasonable and prudent.

ISSUE 183: Are PEF's accounting systems appropriate and do they contain adequate controls to ensure that PEF's customers do not pay costs not properly allocated to jurisdictional service?

AG: No.

ISSUE 184: Is PEF's allocation of costs among customer classes appropriate?

AG: No position at this time.

ISSUE 185: What should the appropriate policy be regarding PEF's responsibility/ability to hedge fuel costs and to recover associated hedging costs?

AG: No position at this time.

ISSUE 186: What is the appropriate allocation between PEF and its ratepayers for revenues from wholesale sales from regulated generation, transmission and distribution assets?

AG: No position at this time.

ISSUE 187: **WITHDRAWN.**

ISSUE 188: Should PEF be required to file, within 90 days after the date of the final order in this docket, a description of all entries or adjustments to its annual report, rate of return reports, and books and records that will be required as a result of the Commission's findings in this rate case?

AG: Yes.

ISSUE 189: Should this docket be closed?

AG: No position at this time.

ISSUE 190: What is the appropriate adjustment to account for the increase in unbilled revenue due to any recommended rate increase?

AG: No position at this time.

ISSUE 191: Should the O&M expense items currently approved for recovery through the Environmental Cost Recovery Clause be included in base rates?

AG: No position at this time.

ISSUE 192: Should a Parent Debt Adjustment be made for the projected test year and if so, what is the appropriate amount of the adjustment?

AG: No position at this time.

F. STIPULATED ISSUES:

None at this time.

G. PENDING MOTIONS:

The Attorney General's Petition to Intervene. Additionally, various motions for protection of confidential information.

H. PENDING CONFIDENTIALITY CLAIMS OR REQUESTS:

The AG is not aware of any pending motions for protection of confidential information that it disputes.

I. COMPLIANCE WITH ORDER NO. PSC-05-0487-PCO-EI:

The AG is not aware of any requirements of the procedural orders in this case with which the AG cannot comply.

J. OBJECTIONS TO WITNESSES' QUALIFICATIONS:

The AG reserves the right to challenge the grounds for and substance of witnesses' opinions at the prehearing conference or at hearing.

Respectfully submitted this 10th day of August, 2005.

CHARLES J. CRIST, JR.
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CERTIFICATE OF SERVICE
DOCKETS NO. 050078

I CERTIFY that a true and correct copy hereof has been furnished by United States mail to the following on this 10th day of August, 2005.

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