Ruth Nettles 090079-EI

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Subject: OPC Prehearing Statement
Attachments: 090079 OPC Prehearing Statement (FINAL) 9-01-09.docx

Electronic Filing

a. Person responsible for this electronic filing:

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b. Docket No. 090079-EI

In re: Petition for increase in rates by Progress Energy Florida, Inc.

c. Document being filed on behalf of Office of Public Counsel

d. There are a total of 30 pages.

e. The document attached for electronic filing is 090079-EI OPC Prehearing Statement .
(See attached file: 090079-EI OPC Prehearing Statement 9.01.09) Thank you for your attention and cooperation to this request.

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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

Petition for increase in rates by Progress Energy Florida, Inc.	)))	Docket No.090079-EI Filed: September 1, 2009

PREHEARING STATEMENT OF THE OFFICE OF PUBLIC COUNSEL

The Citizens of the State of Florida, through the Office of Public Counsel, pursuant to the Order Establishing Procedure in this docket, Order No. PSC-09-0190-PCO-EI, issued March 27, 2009, hereby submit this Prehearing Statement.

APPEARANCES:

Charles J. Rehwinkel
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On behalf of the Citizens of the State of Florida.

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On behalf of the Citizens of the State of Florida.

1. WITNESSES:

The Citizens intend to call the following witnesses, who will address the issues indicated:

NAME	ISSUES
Jacob Pous	7-21, 28, 29, 75, 76
Kimberly H. Dismukes	24,27,28,49, 85
Dr. J. Randall Woolridge	39, 41, 42, 44 - 48
Helmuth W. Schultz	1, 28, 32-38, 49, 59-73, 83, 84, 86, 87
Daniel J. Lawton	15

2. EXHIBITS:

Through Jacob Pous, the Citizens intend to introduce the following exhibits, which can be identified on a composite basis:

JP-Appendix A	Resume
JP-1	Recommended Depreciation Adjustment Summary
JP-2	Summary of Excess Reserves
JP-3	Account 343 Prior Case Life Table
JP-4	Interim Retirement Ratios and Impact on Remaining Lives
JP-5	Summary of Interim Net Salvage Levels
JP-6	Prior and Current Observed Life Tables for Account 364

JP-7	Life-Curve Combinations for Account 364
JP-8	FPL Observed Life Table for Account 364
JP-9	Life-Curve Combinations for Account 368
JP-10	Mass Property Net Salvage Summary
JP-11	Iowa Survivor Curves Details

Through Kimberly H. Dismukes, the Citizens intend to introduce the following exhibits, which can be identified on a composite basis:

KHD-1	Kimberly H. Dismukes Qualifications
KHD-2	Progress Energy, Inc. Organizational Chart
KHD-3	Progress Energy Florida, Inc. Home Wire Advertisement
KHD-4	Progress Energy Florida, Inc. Company Surge Protection Services
KHD-5	Progress Energy Florida, Inc Heater Repair Advertisement
KHD-6	Progress Energy Florida, Inc. Lighting Advertisement
KHD-7	Progress Energy Florida, Inc. Adjustment for Non Regulated Operations
KHD-8	Progress Energy Florida, Inc. Adjustment for Wholesale Operations

Through Dr. J. Randall Woolridge, the Citizens intend to introduce the following exhibits, which can be identified on a composite basis:

JRW-1	Weighted Vander Weide's Cost of Capital
JRW-2	Interest Rates Ten Year Treasury Yields
JRW-3	Thirty Year Yields and Yield Spreads

JRW-4	Summary Financial Risk Statistics for Electric Proxy Group
JRW-5	Capital Structure Ratios and Debt Cost Rate
JRW-6	The Relationship Between Estimated ROE And Market-To-Book Ratios
JRW-7	Long Term – "A" Rated Public Utility Bonds
JRW-8	Industry Average Betas
JRW-9	Three-Stage DCF Model
JRW-10	DCF Study
JRW-11	CAPM Study
JRW-12	Summary of Dr. Vander Weide's Results
JRW-13	DCF Growth Rate Analysis
JRW-14	Historical Risk Premium Evaluation
JRW-15	S&P 500 Growth Rates

Through Helmuth W. Schultz III, the Citizens intend to introduce the following exhibits, which can be identified on a composite basis:

HWS- APPENDIX A	Qualifications of Helmuth W. Schultz, III
HWS-1	Projected Test Year Ended December 31, 2010
HWS-2	J9B2 Rate Case
HWS-3	Discovery Example

Through Daniel J. Lawton, the Citizens intend to introduce the following exhibits, which can be identified on a composite basis:

DJL-1	Resume Of Daniel J. Lawton
DJL-2	Excess Reserve / Function
DJL-3	Cash Flow Impacts
DJL-4	Filed Case Cash Flow
DJL-5	Progress Energy Financial Ratios

3. STATEMENT OF BASIC POSITION

OPC's basic position is that PEF has overstated its need for any rate increase. Its' request for a half billion increase in retail base rates comes at a time when the state of Florida is mired in the worst economic slump in over 50 years. This case is driven by three main issues. First, the Company is seeking an outlandish return on Equity of 12.54 at a time when ROE awards around the country are almost 200 basis points lower. The OPC has filed expert testimony demonstrating that an ROE of 9.75% is more appropriate. The overstatement of its cost of capital requirement inflates revenue requirements by over $140 million. Second, PEF has in the past over collected depreciation expense resulting in over $850 million in depreciation reserve surplus. Furthermore the Company has improperly calculated its proposed depreciation expense by at least $113 million. Together these errors inflate the revenue requirement by 275 million. Finally, PEF is seeking excessive compensation of nearly $60 million. All told, these three issues drive the company's "need" to seek rate relief in these unfortunate times. The commission should reject the Company's positions on these issues and reject the requested rate relief.

4. STATEMENT OF FACTUAL ISSUES AND POSITIONS

ISSUE 1: Is the rate increase, requested by Progress Energy Florida, Inc., a just and reasonable rate for its customers and is it in the public interest? **(AG)**

OPC: **No. PEF's request for $499 million rate increase during a time of unprecedented economic distress will not yield rates that are fair, just and**

reasonable or in the public interest. PEF's rates, instead, should be reduced by $35.038 million. (Schultz)

TEST PERIOD AND FORECASTING

ISSUE 2: Is PEF's projected test period of the twelve months ending December 31, 2010 appropriate? **(Staff, OPC #2)**

OPC: **OPC has not contested the authority of the Commission to determine PEF's base rate revenue requirements using a 2010 projected test year in this proceeding.**

ISSUE 3: What are the appropriate inflation, customer growth, and other trend factors for use in forecasting? **(OPC)**

OPC: **No position at this time**

ISSUE 4: Are PEF's forecasts of customer growth, KWH by revenue class, and system KW for the projected test year appropriate? **(Staff)**

OPC: **No position at this time**

ISSUE 5: Are PEF's forecasts of billing determinants by rate class for the projected test year appropriate? **(Staff)**

OPC: **No position at this time**

QUALITY OF SERVICE

ISSUE 6: Is the quality and reliability of electric service provided by PEF adequate? **(Staff, OPC 6)**

OPC: **No position pending receipt of all customer testimony.**

DEPRECIATION STUDY

ISSUE 7: Should the current-approved depreciation rates, capital recovery schedules, and amortization schedules be revised? **(Staff, OPC 7)**

OPC: **Yes. (Pous)**

ISSUE 8: What are the appropriate capital recovery schedules? **(Staff, OPC #8)**

OPC: **The appropriate recovery schedules should be revised consistent with recommendations of OPC witnesses Jacob Pous, outlined in the following issues. Further, this should be a "fallout issue" that takes into account the Commission's consideration of, and explicit rulings on, the specific depreciation-related issues that OPC and other parties have raised and addressed through testimony and other participation in this proceeding. (Pous)**

ISSUE 9: Is PEF's calculation of the average remaining life appropriate?

OPC: **No. PEF's consultant proposes ASL (Average Service Life) corresponding Iowa Survivor Curves that are significantly out of line with realistic expectations and fail to properly evaluate factors that directly impact the OLT (Observed Life Table). The consultant selections for these two accounts (364 and 368) reflect a bias towards artificially shorts ASLs and he fails to provide support for this practice. Correcting these errors reduces depreciation expense $13,977,196 (Pous)**

ISSUE 10: What are the appropriate depreciation parameters (remaining life, net salvage percent, and reserve percent), amortizations, and resulting rates for each production unit, including but not limited to coal, steam, combined cycle, etc.? **(OPC #s 8, 9, 10, 11, 12, 14, 16, 20, and FIPUG #s 8, 9)**

OPC: **The appropriate depreciation parameters should be determined using the recommendations of OPC witness Jacob Pous regarding the appropriate life spans, remaining life calculations, the level of interim retirements, net salvage, and depreciation rates as addressed in the sub-categories below:**

Appropriate life spans by category

Coal-fired production units: No. PEF's proposed life spans of 53.5 and 50.5 years, respectively, for the Crystal River 4 and 5 coal-fired generating units is artificially short. Based on empirical evidence and the treatment afforded such units in other jurisdictions, as well as indications of PEF's expectations, OPC supports a 60-year life span for coal-fired units.

Large steam oil or gas-fired generating facilities: No. Based on empirical evidence and the treatment afforded such units in other jurisdictions, as well as indications of PEF's own expectations, the Anclote units 1 and 2 should be afforded a life span of 50 years for purposes of the depreciation study.

NOTE: The impact of OPC's adjustments for coal-fired and large steam units is to decrease depreciation expense by $26 million.

Combined cycle generating facilities: OPC submits that the 30-year life span that PEF uses for combined cycle units is unrealistically short. At a minimum, the Commission should direct FPL to evaluate available information and develop a more appropriate life span in its next depreciation study. OPC is aware that another intervenor's witness has identified 35 years as the appropriate life span. This life span is more appropriate and closer to the view of OPC's witness, as well. If the Commission decides to revise the life span for combined cycle units in this proceeding, it should set the minimum value at 35 years. (Pous)

ISSUE 11: What life spans should be used for PEF's coal plants?**(OPC, FIPUG #8)**

OPC: **PEF's proposed life spans of 53.5 and 50.5 years, respectively, for the Crystal River 4 and 5 coal-fired generating units is artificially short. Based on empirical evidence and the treatment afforded such units in other jurisdictions, as well as indications of PEF's expectations, OPC supports a 60-year life span for coal-fired units. (Pous)**

ISSUE 12: What life spans should be used for PEF's combined cycle plants? **(OPC, FIPUG #9)**

OPC: **OPC submits that the 30-year life span that PEF uses for combined cycle units is unrealistically short. At a minimum, the Commission should direct FPL to evaluate available information and develop a more appropriate life span in its next depreciation study. OPC is aware that another intervenor's witness has identified 35 years as the appropriate life span. This life span is more appropriate and closer to the view of OPC's witness, as well. If the Commission decides to revise the life span for combined cycle units in this proceeding, it should set the minimum value at 35 years. (Pous)**

ISSUE 13: What are the appropriate depreciation parameters (remaining life, net salvage percent, and reserve percent), amortizations, and resulting rates for each transmission, distribution, and general plant account? **(Staff, OPC #8, 11, 18, 19, 20)**

OPC: ***Appropriate depreciation rates*: The Commission should adopt the depreciation rates as recommended by OPC witness Jacob Pous. The cumulative effect of his recommendation is to reduce annual depreciation**

expense from PEF's requested $445,613,594 to $332,500,603, or a reduction of $113,112,961. (Pous)

The appropriate depreciation parameters should be determined using the recommendations of OPC witness Jacob Pous regarding the appropriate life characteristics, remaining life calculations, the level of interim retirements, net salvage, and depreciation rates. These positions are specifically addressed in the sub-categories below:

***Level of interim retirements - production units and interim net salvage and interim net terminal salvage*:** **PEF has proposed interim retirements based on inappropriate use of actuarial analysis which essentially is an effort to create and implement an accelerated form of depreciation. In addition, the Company proposes an interim retirement life-curve combination approach that produces unreasonable and unrealistic results. These interim retirement results are inconsistent with what PEF's consultant has proposed in other proceedings and create excessive levels of interim retirements. Mr. Pous advances a better approach which results in a $45 million reduction in depreciation expense. These recommended ratios and lives related to interim retirements are shown on Exhibit (JP-4). Interim net salvage results proposed by the Company's consultant are excessively negative and not documented. OPC witness Pous recommends the use of the actual historic values reflected in the company's study be used as a conservative approach. These recommendations are found on Exhibit (JP-5).**

Appropriate life characteristics and net salvage levels for transmission, distribution, and general plant **FPL proposes inappropriate life characteristics and excessive levels of negative net salvage. FPL overstates depreciation expense by the cumulative effect of adjustments to 22 different accounts, each of which requires a discrete decision.**

a) Account 353.1- Transmission Station Equipment: Adjust PEF's proposed forecasted negative net salvage to positive 5% net salvage.

b) Account 355 – Transmission, Poles and Fixtures: Adjust PEF's proposed negative 50% net salvage to negative 25% net salvage.

c) Account 356 – Transmission Overhead Conductors and Devices: Adjust PEF's proposed negative 30% net salvage to negative 10% net salvage.

d) **Account 358 – Transmission Underground Conductors and Devices: Adjust PEF's proposed negative 3% to zero net salvage.**

e) **Account 362 – Distribution Station Equipment: Adjust PEF's proposed negative 15% net salvage to zero net salvage.**

f) **Account 364 – Distribution Poles, Towers and fixture Other Production Fuel Holders: Adjust PEF's proposed negative 50% net salvage to 35% negative net salvage.**

g) **Account 365 – Distribution Overhead Conductors and Devices: Adjust PEF's proposed negative 45% net salvage to negative 20% net salvage.**

h) **Account 366 – Distribution Underground Conduit: Adjust PEF's proposed negative 10% net salvage to zero net salvage.**

i) **Account 367 – Distribution Underground Conductors and Devices: Adjust PEF's proposed negative 10% net salvage to zero net salvage.**

j) **Account 367 – Distribution line transformers: Adjust PEF's proposed negative 15% net salvage to negative 5% net salvage.**

k) **Account 369.1 – Distribution Services - Overhead: Adjust PEF's proposed negative 50% net salvage to negative 40% net salvage.**

l) **Account 369.2 – Distribution Services - Underground: Adjust PEF's proposed negative 15% net salvage to zero net salvage.**

m) **Account 370 – Distribution Meters: Adjust PEF's proposed negative 10% net salvage to 6% net salvage.**

n) **Account 373 – Distribution Street Lighting and Signals: Adjust PEF's proposed negative 20% net salvage to negative 5% net salvage.**

o) **Account 390 – General Structures and Improvements: Adjust PEF's proposed negative 5% net salvage to a positive 15% net salvage. (Pous)**

ISSUE 14: Based on the application of the depreciation parameters that the Commission has deemed appropriate to PEF's data, and a comparison of the calculated theoretical reserves to the book reserves, what are the resulting differences? **(Staff)**

OPC: **PEF currently has a depreciation reserve excess of $858 million. This amount is based on acceptance of OPC witness Jacob Pous' adjustments to**

PEF's depreciation study. It does not take into account OPC's and Mr. Pous' position that the life spans that PEF assigns to combined cycle units are too short; modifying those values to more realistic life spans in this proceeding would increase the size of PEF's depreciation reserve excess. (Pous)

<u>ISSUE 15</u>: What, if any, corrective reserve measures should be taken with respect to the differences identified in the Issue 14?

<u>OPC:</u> **PEF's enormous depreciation reserve excess means it has over-collected depreciation expense from current customers in a way that constitutes a massive intergenerational inequity. A priority of this proceeding should be to rectify this cumulative inequity to the extent consistent with the dual objectives of achieving fairness to current customers while maintaining PEF's financial integrity. PEF's proposal to return the excess over a remaining plant life of about 2 years is woefully inadequate to address the inequity involved. OPC estimates that there will be a 50% turnover in residential customers during that period. Moreover, PEF can afford to do much more. PEF should be required to amortize $$646 million of its reserve excess back to customers over a period of four years. Limiting the amount of the overall $858 million excess to be amortized to $646 million will leave a reserve excess that will protect PEF at the same time the Commission requires PEF to begin to restore a measure of more equitable treatment to the customers who have overpaid. Limiting the amount to be amortized to $646 million will protect PEF's financial integrity. OPC's review of PEF's financial integrity takes into account both the amortization of $646 million of depreciation reserve excess and the adoption of all of OPC's other recommendations in the consolidated proceedings, including the recommendation to reduce base rates by $35 million. Based on OPC's review, PEF will continue to show the very strong financial parameters typical of an investment grade-rated utility. OPC's recommended four year amortization period coincides with the timing of PEF's next depreciation study, and is the same amortization period PEF relied on for its special amortization requests. At that time, based on further evaluation the Commission can fine tune its corrective action.**

Considerations and criteria when evaluating time frame for amortization of the depreciation reserve imbalances: **The Commission should consider the extent to which it can reverse the pattern of over collection of depreciation expense while maintaining PEF's strong financial integrity. It should also consider the timing of PEF's next depreciation study. The period of four years, when coupled with identifying $646 million as the amount to be amortized, satisfies these criteria.**

Impact of proposal with respect to the treatment of the depreciation reserve imbalances on PEF's financial integrity **If the Commission adopts all of OPC's recommendations in these consolidated dockets, including the recommendation to amortize $646 million of PEF's reserve excess over four years and OPC's overall recommendation to reduce base rates by $35 million annually, PEF would continue to exhibit strong financial integrity. In his testimony and exhibits, OPC witness Daniel J. Lawton demonstrates that PEF would continue to display the financial parameters and indicators typical of an investment grade-rated electric utility. (Pous)**

ISSUE 16: What should be the implementation date for revised depreciation rates, capital recovery schedules, and amortization schedules? **(Staff, OPC #27)**

OPC: **January 1, 2010. (Pous)**

FOSSIL DISMANTLEMENT COST STUDY

ISSUE 17: Should the current-approved annual dismantlement provision be revised? **(Staff, OPC #28)**

OPC: **The Commission should direct PEF to propose a more realistic approach and cost level to terminal net salvage in its next depreciation study. (Pous)**

ISSUE 18: What, if any, corrective reserve measures should be approved? **(Staff, OPC # 29)**

OPC: **If the Commission decides to address fossil dismantlement in this proceeding, the Company's costs should be reduced by 60%. (Pous)**

ISSUE 19: What is the appropriate annual provision for dismantlement? **(Staff, OPC #30)**

OPC: **No position at this time.**

ISSUE 20: Are PEF's assumptions in the fossil dismantlement study with regard to site restoration reasonable? **(formerly OPC 31)**

OPC: **No. (Pous)**

ISSUE 21: In future dismantlement studies filed with the Commission, should PEF consider alternative demolition approaches? **(OPC #32)**

OPC: **The Commission should direct PEF to propose a more realistic approach and cost level to terminal net salvage in its next depreciation study. (Pous)**

NUCLEAR DECOMMISSIONING COST STUDY

ISSUE 22: Should the currently approved annual nuclear decommissioning accruals be revised? **(Staff)**

OPC: **No.**

ISSUE 23: What is the appropriate annual decommissioning accrual in equal dollar amounts necessary to recover future decommissioning costs over the remaining life Crystal River Unit 3 (CR3)? **(Staff)**

OPC: **The commission should make no change in PEF's nuclear decommissioning accrual.**

RATE BASE

ISSUE 24: Has the company removed all non-utility activities from rate base? **(Staff, OPC #33)**

OPC: **No. Ratebase and associated accumulated depreciation should be reduced to account for the erroneous wholesale direct allocation to the City of Tallahassee's ownership in CR3. (Dismukes)**

ISSUE 25: Should any adjustments be made to rate base related to the Bartow Repowering Project?

OPC: **No Position at this time.**

ISSUE 26: Should an adjustment be made to reflect any test year or post test year revenue requirement impacts of "The American Recovery and Reinvestment Act" signed into law by the President on February 17, 2009? **(OPC)**

OPC: **No Position at this time, pending receipt of further information.**

ISSUE 27: Is PEF's requested level of Plant in Service for the projected 2010 test year appropriate? **(Staff)**

OPC: **No. Plant in service should be adjusted ($2,312,287) to properly allocate general plant to wholesale operations. See Issue 24. (Dismukes)**

ISSUE 28: What adjustments, if any, should be made to accumulated depreciation to reflect revised depreciation rates, capital recovery schedules, and amortization schedules resulting from PEF's depreciation study? **(Staff)**

OPC: **Accumulated depreciation should be reduced ($112,883,411) to account for the net impact of the amortization of the depreciation reserve surplus reserve recommended by OPC witness Jacob Pous and the impact of the wholesale allocation adjustment proposed by OPC witness Kimberly Dismukes. (Schultz, Pous, Dismukes)**

ISSUE 29: Is PEF's requested level of Accumulated Depreciation and Amortization in the amount of $4,437,117,000 for the 2010 projected test year appropriate? **(Staff)**

OPC: **No.**

ISSUE 30: Is PEF's requested level of CWIP – No AFUDC in the amount of $151,145,000 for the projected 2010 test year appropriate? **(Staff)**

OPC: **No Position at this time.**

ISSUE 31: Is PEF's requested level of Plant Held for Future Use in the amount of $25,723,000 for the projected 2010 test year appropriate? **(Staff)**

OPC: **No.**

ISSUE 32: Is PEF's requested level of Nuclear Fuel – No AFUDC (net) in the amount of $126,566,000 for the projected 2010 test year appropriate? **(Staff)**

OPC: **No. PEF's proposed nuclear fuel balance should be reduced ($26,752,411) as a result of the company's failure to provide any justification for the large increase in test year nuclear fuel. (Schultz)**

ISSUE 33: Should an adjustment be made to PEF's requested storm damage reserve, annual accrual of $14.9 million, and target level of $150 million? **(OPC 83)**

OPC: **Yes, PEF has not justified any increase in its storm damage accrual. In addition, PEFs storm damage reserve appears to be at a level that is more than adequate to meet the requirements of its expected level of non-catastrophic storms based on recent experience. For this reason, the Commission should order PEF to cease its storm damage accrual entirely. (Schultz)**

ISSUE 34: Should any adjustments be made to PEF's fuel inventories? **(Staff, OPC #42)**

OPC: **No position at this time**

ISSUE 35: Should unamortized rate case expense be included in Working Capital? **(Staff)**

OPC: **No. (Schultz)**

ISSUE 36: Has PEF appropriately reflected the impact of SFAS 143 (Asset Retirement Obligations) in its proposed working capital calculation? **(OPC)**

OPC: **PEF has not demonstrated that it has reflected the impact of SFAS 143 in a revenue neutral manner as required by Commission Rule 25-14.014. Absent any demonstration that PEF has complied with the rule, the Commission should require PEF to record an appropriate reduction to ratebase to offset the increase in working capital caused by the ARO adjustment. (Schultz)**

ISSUE 37: Is PEF's requested level of Working Capital Allowance in the amount of ($9,041,000) for the projected test year appropriate? **(Staff)**

OPC: **No. Working capital allowance should be increased $26,190,221 after adjusting for removing unamortized rate case expense and excess storm damage reserve amounts. (Schultz)**

ISSUE 38: Is PEF's requested level of Rate Base in the amount of $6,238,617,000 for the 2010 projected test year appropriate? **(Staff)**

OPC: **No. Ratebase should be $6,348,626 after adjustments recommended by OPC witnesses Pous, Dismukes and Schultz. (Schultz)**

COST OF CAPITAL

ISSUE 39: What is the appropriate amount of accumulated deferred taxes to include in the capital structure for the projected test year? **(Staff, OPC #48)**

OPC: **$329,399,000. (Woolridge)**

ISSUE 40: What is the appropriate amount and cost rate of the unamortized investment tax credits to include in the capital structure for the projected test year? **(Staff, OPC #49)**

OPC: **$4,991,000. The appropriate cost rate is 7.84%. (Woolridge)**

ISSUE 41: Should PEF's requested pro forma adjustment to equity to offset off-balance sheet purchased power obligations be approved? **(Staff)**

OPC: **No. Due to the lack of guidance given by S&P on the risk factor they use, the Commissions support for the collection of payments for PPAs, the fact that the PPAs are not GAAP adjustments and which are not recorded as liabilities on the books of the company and the fact that, from a regulatory perspective, PPA payments are unlike debt, the PPA adjustment to the Company's capital structure is inappropriate. (Woolridge)**

ISSUE 42: What is the appropriate equity ratio that should be used for PEF for purposes of setting rates in this proceeding? **(Staff, OPC #53)**

OPC: **As demonstrated by Dr. Woolridge, a 50% equity ratio is fair to the Company and is conservative compared to electric utilities generally and is consistent with the way investors view PEF's capital structure. (Woolridge)**

ISSUE 43: Have rate base and capital structure been reconciled appropriately? **(Staff, OPC #52)**

OPC: **No position at this time.**

ISSUE 44: What is the appropriate capital structure for the projected test year? **(Staff)**

OPC: **The capital structure recommended by Dr. Woolridge as reflected in Ex. HWS-1, Schedule D, appended to the testimony of Helmuth W. Schultz, is the appropriate capital structure. (Woolridge)**

ISSUE 45: What is the appropriate cost rate for short-term debt for the projected test year? **(Staff, OPC #50)**

OPC: **3.06%. (Woolridge)**

ISSUE 46: What is the appropriate cost rate for long-term debt for the projected test year? **(Staff, OPC #51)**

OPC: **6.05%. (Woolridge)**

ISSUE 47: What is the appropriate return on equity (ROE) for the projected test year? **(Staff)**

OPC: **9.75%. (Woolridge)**

ISSUE 48: What is the appropriate weighted average cost of capital including the proper components, amounts, and cost rates associated with the projected capital structure? **(Staff)**

OPC: **7.533%. (Woolridge)**

NET OPERATING INCOME

ISSUE 49: Is PEF's projected level of total operating revenues in the amount of $1,517,918,000 for the 2010 projected test year appropriate? **(Staff)**

OPC: **Projected operating revenues should be adjusted by $8,646,274 as recommended by OPC witness Dismukes to correct for inadequate attribution of costs to the non regulated operations. Projected test year revenues should be at least be $1,526,564,000. (Schultz, Dismukes).**

ISSUE 50: What are the appropriate adjustments to reflect the base rate increase for the Bartow Repowering Project authorized in Order No. PSC-09-0415-PAA-EI? **(Staff)**

OPC: **No position at this time.**

ISSUE 51: Has PEF made the appropriate test year adjustments to remove conservation revenues and expenses recoverable through the Conservation Cost Recovery Clause? **(Staff)**

OPC: **No position at this time.**

ISSUE 52: Has PEF made the appropriate test year adjustments to remove fuel and purchased power revenues and expenses recoverable through the Fuel and Purchased Power Cost Recovery Clause? **(Staff)**

OPC: **No position at this time.**

ISSUE 53: Has PEF made the appropriate test year adjustments to remove capacity revenues and expenses recoverable through the Capacity Cost Recovery Clause? **(Staff)**

OPC: **No position at this time.**

ISSUE 54: Has PEF made the appropriate test year adjustments to remove environmental revenues and expenses recoverable through the Environmental Cost Recovery Clause? **(Staff)**

OPC: **No position at this time.**

ISSUE 55: Has PEF made the appropriate adjustments to remove charitable contributions? **(OPC)**

OPC: **No position at this time.**

ISSUE 56: Has PEF made the appropriate adjustments to remove Aviation costs for the test year? **(OPC)**

OPC: **No position at this time.**

ISSUE 57: Should an adjustment be made to advertising expenses? **(OPC)**

OPC: **No position at this time.**

ISSUE 58: Has PEF made the appropriate adjustments to remove lobbying expenses? **(OPC)**

<u>OPC:</u> **No position at this time.**

<u>ISSUE 59</u>: Is PEF's proposed allowance of $2,412,100 for directors and officers liability insurance appropriate? **(OPC)**

<u>OPC:</u> **No. Directors and Officers Liability insurance expense should be disallowed it its entirety as those costs are incurred only for the protection and benefit of the shareholders who are ultimately responsible for hiring directors and officers. (Schultz)**

<u>ISSUE 60</u>: Is PEF's proposed allowance of $3,669,000 for 2010 injuries and damages expense appropriate? **(OPC)**

<u>OPC:</u> **No. Since it appears that the injuries and damages reserve expense is not supported by the record or the company's efforts to justify it and the amount of $4,778,604 -- which includes dollars identified as related to both Injuries & Damages Expense and A&G Office Supplies & Expense -- should be disallowed. (Schultz)**

<u>ISSUE 61</u>: Is PEF's proposed allowance of $23,228,000 for 2010 A&G office supplies and expenses appropriate? **(OPC)**

<u>OPC:</u> **No. $2,331,755 of A&G Office Supplies and Expense should be disallowed as a result of the failure to explain or justify those expenses in the 2001 budget. (Schultz)**

<u>ISSUE 62</u>: Should an adjustment be made to PEF's proposed 2010 allowance for O&M expense to reflect productivity improvements, if any? **(OPC)**

<u>OPC:</u> **Yes. The Commission should recognize the company's incentive to implement post rate case award efficiencies beyond those reflected in its filing. PEF's strategic plan sets as a goal achievement of annual productivity gains of 3-5%. The Commission should utilize the more conservative target of 3% and reduce projected O&M expense by $13.034 million. (Schultz)**

<u>ISSUE 63</u>: Should an adjustment be made to PEF's requested level of salaries and employee benefits for the 2010 projected test year? **(Staff)**

<u>OPC:</u> **Yes. As demonstrated in the testimony of OPC witness Schultz, PEFs Salaries and benefits are excessive in light of today's economy and PEFs**

obligation to minimize the impact of its rate request on its customers. Compensation expense should be reduced by $47,540,636 to eliminate the excessive nature of the company's increase in base salary. This adjustment is comprised of adjustments to payroll increases, benefits, proposed employee position levels, and incentive compensation as discussed in Issues 64-67. (Schultz)

<u>**ISSUE 64**</u>**:** Are PEF's proposed increases to average salaries for 2010 appropriate? **(OPC)**

<u>**OPC:**</u> **No. PEF's proposed 4.7% overall increase in base salaries is excessive in light of the labor market specifically and the economy in general. The overall increase should be held to 2.35%, resulting in a reduction to payroll expense of $12,209,439. (Schultz)**

<u>**ISSUE 65**</u>**:** Are PEF's proposed increases in employee positions for 2010 appropriate? **(OPC)**

<u>**OPC:**</u> **No. The Company's proposed allowance for filling 80 positions should be rejected to account for the overall level of vacant positions that will likely exist in the test year. This reduces payroll expense $4,156,891. (Schultz)**

<u>**ISSUE 66**</u>**:** Should the proposed 2010 allowance for incentive compensation be adjusted? **(OPC)**

<u>**OPC:**</u> **Yes. As demonstrated in the testimony of OPC witness Schultz, PEF's expense in the amount of $25,371,639 for incentive compensation and $ 12,094,011 for long term incentive compensation should be disallowed as providing no benefit to ratepayers and constituting nothing more than added compensation that is inappropriate at any times, but especially in today's economic climate. (Schultz)**

<u>**ISSUE 67**</u>**:** Should the Company's proposed 2010 allowance for employee benefit expense be adjusted? **(OPC)**

<u>**OPC:**</u> **Yes. Employee benefits expense should be reduced by $9,376, 809 to account for an unexplained discrepancy between the MFRs and the revised MFRs. Additionally, an adjustment needs to be made to be consistent with the adjustment in the level of employee due to vacant positions (see Issue65). (Schultz)**

<u>**ISSUE 68**</u>**:** Should an adjustment be made to the accrual for property damage for the 2010 projected test year? **(Staff)**

<u>**OPC:**</u> **No position at this time.**

ISSUE 69: Should an adjustment be made to PEF's 2010 generation O&M expense?

OPC: **Yes. Power Operations Expense should be reduced $17,741,309 due to the lack of justification and documentation for the company's proposed increases in expense levels or due to the recurring nature of costs. (Schultz)**

ISSUE 70: Should an adjustment be made to PEF's 2010 transmission O&M expense?

OPC: **Yes. Transmission vegetative management expenses should be reduced $1,717,043 due to the lack of justification for the increase over historical levels. Further, transmission bonding and grounding expense should be reduced $338,145 due to account for the fact that the proposed 2010 expense does not reflect that the cost is not incurred on an annual basis. (Schultz)**

ISSUE 71: Should an adjustment be made to PEF's 2010 distribution O&M expense?

OPC: **Yes. Distribution vegetative management expense should be reduced $8,924,197 to account for PEF's deferral of 2009 expenses into the test year. The Company's proposed cost level is not representative of annual requirements to perform tree trimming and the adjustment accounts for that. (Schultz)**

ISSUE 72: Should an adjustment be made to Operating and Maintenance (O&M) expenses to normalize the number of outages PEF has projected for the 2010 projected test year? **(Staff)**

OPC: **No position at this time.**

ISSUE 73: What is the appropriate amount and amortization period for PEF's rate case expense for the 2010 projected test year? **(Staff)**

OPC: **Rate case expense should be reduced by $989,618 and the amount included in rate base should be reduced at least $969,531. (Schultz)**

ISSUE 74: Should an adjustment be made to bad debt expense for the 2010 projected test year? **(Staff)**

OPC: **No position at this time**

ISSUE 75: What adjustments, if any, should be made to the 2010 projected test year depreciation expense to reflect revised depreciation rates, capital recovery schedules, and amortization schedules resulting from PEF's depreciation study? **(Staff)**

OPC: **Depreciation expense requested by PEF should be reduced by $113,112,961. (Pous)**

ISSUE 76: What is the appropriate amount of depreciation and fossil dismantlement expense for the 2010 projected test year? **(Staff)**

OPC: **Depreciation expense for 2010 should be $332,500,632. OPC takes no position at this time on the level of fossil dismantlement expense. (Pous)**

ISSUE 77: What is the appropriate amount of nuclear decommissioning expense for the 2010 projected test year? **(Staff)**

OPC: **$0.**

ISSUE 78: What adjustments, if any, should be made to the amortization of End of Life Material and Supplies inventories? **(Staff)**

OPC: **No position at this time.**

ISSUE 79: What adjustments, if any, should be made to the amortization of the costs associated with the last core of nuclear fuel? **(Staff)**

OPC: **No position at this time.**

ISSUE 80: Should an adjustment be made to taxes other than income taxes for the 2010 projected test year? **(Staff OPC #96)**

OPC: **No position at this time**

ISSUE 81: Is it appropriate to make a parent debt adjustment as per Rule 25-14.004, Florida Administrative Code? **(Staff)**

OPC: **Yes.**

ISSUE 82: Should an adjustment be made to Income Tax expense for the 2010 projected test year? **(Staff)**

OPC: **OPC proposes no specific adjustment for income taxes. Any adjustment would be a fallout of other adjustments.**

ISSUE 83: Is PEF's requested level of O&M expense in the amount of $713,371,000 for the 2010 projected test year appropriate? **(Staff)**

OPC: **No.**

ISSUE 84: Is PEF's projected net operating income in the amount of $268,546,000 for the 2010 projected test year appropriate? **(Staff)**

OPC: **No.**

ISSUE 85: Has PEF appropriately accounted for affiliated transactions? If not, what adjustment, if any, should be made? **(OPC)**

OPC: **No. The commission should make two general adjustments to account for PEFs failure to protect retail ratepayers from non jurisdictional transactions.**

Under-allocation of expenses to non regulated operations
Excessive profitability (return on investment) of affiliated non-regulated operations indicates that PEF is not fairly allocating costs to these operations. OPC proposes that to remedy this and insure that ratepayers do not provide a subsidy to non-regulated affiliates, that all related costs and revenues of the operations be treated above the line for ratemaking. This would increase net operating income by $8.6 million.

Direct Assignment of Costs to the Wholesale Jurisdiction.
In order to properly allocate administrative and general and general plant to the City of Tallahassee's interest in the Crystal River nuclear plant, the Commission should reduce plant and associated accumulated depreciation and property taxes for a net plant reduction of $1.8 million. Retail test year A&G expense should be reduced by $6.3 million. (Dismukes)

REVENUE REQUIREMENTS

ISSUE 86: 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? **(Staff)**

OPC: **No position at this time.**

ISSUE 87: Is PEF's requested annual operating revenue increase of $499,997,000 for the 2010 projected test year appropriate? **(Staff)**

OPC: **No. Required annual operating revenues for the 2010 projected test year are ($35,038,000). PEF's retail rates should be reduced to reflect this. (Schultz)**

COST OF SERVICE AND RATE DESIGN

ISSUE 88: Has PEF correctly calculated revenues at current rates for the projected test year? **(Staff)**

OPC: **No position.**

ISSUE 89: Is PEF's proposed separation of costs and revenues between the wholesale and retail jurisdictions appropriate? **(Staff)**

OPC: **No position.**

ISSUE 90: What is the appropriate Cost of Service Methodology to be used to allocate base rate and cost recovery costs to the rate classes?

OPC: **No position.**

ISSUE 91: If the Commission approves a cost allocation methodology other than the 12 CP and 1/13th Average Demand, should all cost recovery factors be adjusted to reflect the new cost of service methodology? **(Staff)**

OPC: **No position.**

ISSUE 92: How should any change in revenue requirements approved by the Commission be allocated among the customer classes? **(Staff)**

OPC: **No position.**

ISSUE 93: Is PEF's proposed treatment of unbilled revenue due to any recommended rate change appropriate? **(Staff)**

OPC: **No position.**

ISSUE 94: Is PEF's proposed charge for Investigation of Unauthorized Use appropriate? **(Staff)**

OPC: **No position.**

ISSUE 95: 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? **(Staff)**

OPC: **No position.**

ISSUE 96: Is PEF's proposal to grandfather certain terms and conditions for existing IS-1, IST-1, CS-1, and CST-1 customers under the combined IS and CS rate schedules appropriate? **(Staff)**

OPC: **No position.**

ISSUE 97: Should PEF's proposal to close the RST-1 rate to new customers be approved? **(Staff)**

OPC: **No position.**

ISSUE 98: Are PEF's proposed customer charges appropriate? **(Staff)**

OPC: **No position.**

ISSUE 99: Are PEF's proposed service charges appropriate? **(Staff)**

OPC: **No position.**

ISSUE 100: Is PEF's proposed charge for Temporary Service appropriate? **(Staff)**

OPC: **No position.**

ISSUE 101: Is PEF's proposed Premium Distribution Service charge appropriate? **(Staff)**

OPC: **No position.**

ISSUE 102: Are PEF's proposed tariffed LS-1 lighting rate schedule charges for standard equipment appropriate? **(Staff)**

OPC: **No position.**

ISSUE 103: Are PEF's proposed 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, appropriate? **(Staff)**

OPC: **No position.**

ISSUE 104: Are PEF's proposed delivery voltage credits appropriate? **(Staff)**

OPC: **No position.**

ISSUE 105: Are PEF's power factor charges and credits appropriate? **(Staff)**

OPC: **No position.**

ISSUE 106: Is PEF's proposed lump sum payment for time-of-use metering costs appropriate? **(Staff)**

OPC: **No position.**

ISSUE 107: What is the appropriate method of designing time of use rates for PEF? **(AFFIRM Issue)**

OPC: **No position.**

ISSUE 108: What are the appropriate charges under the Firm, Interruptible, and Curtailable Standby Service rate schedules? **(Staff)**

OPC: **No position.**

ISSUE 109: What is the appropriate level of the interruptible credit? **(FIPUG)**
OPC: **No position.**

ISSUE 110: Should the interruptible credit be load factor adjusted? **(FIPUG)**

OPC: **No position.**

ISSUE 111: What are the appropriate energy charges? **(Staff, FIPUG #17)**

OPC: **No position.**

ISSUE 112: What are the appropriate demand charges? **(Staff, FIPUG #18)**

OPC: **No position.**

ISSUE 113: What are the appropriate lighting charges? **(Staff)**

OPC: **No position.**

ISSUE 114: Should PEF's proposal to revise its Leave Service Active (LSA) provision (tariff sheet No. 6.110) be approved? **(Staff)**

OPC: **No position.**

ISSUE 115: What is the appropriate effective date for PEF's revised rates and charges? **(Staff, OPC #103)**

OPC: **No position.**

OTHER ISSUES

ISSUE 116: Should any of the $13,078,000 interim rate increase granted by Order No. PSC-09-0413-PCO-EI be refunded to the ratepayers? **(Staff)**

OPC: **Yes. The increase was not lawfully granted and should be refunded with interest as determined by commission rule.**

ISSUE 117: 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, earnings surveillance reports, and books and records which will be required as a result of the Commission's findings in this docket [OPC – rate case instead of docket]? **(Staff, OPC #104)**

OPC: **Yes.**

ISSUE 118: What are the appropriate guidelines for the pension fund regulatory asset? **(FIPUG)**

OPC: **No Position at this time.**

ISSUE 119: Does the creation of a regulatory asset and the deferral of pension expenses from a period covered by the Stipulation approved by Order No. PSC-05-0945-S-EI to a future period violate the terms of the Stipulation and order?

OPC: **Yes.**

ISSUE 120: Does the creation of a regulatory asset and the deferral of pension expenses from a period covered by the Stipulation and order to a future period constitute retroactive ratemaking?

OPC: **Yes.**

ISSUE 121: Does the creation of a regulatory asset and the deferral of pension expenses from a period covered by the revenue sharing provisions of the Stipulation and order to a future period result in double recovery of those expenses?

OPC: **Yes.**

ISSUE 122: Should this docket be closed? **(Staff, OPC #105)**

OPC: **No Position at this time.**

5. **STIPULATED ISSUES:**

None.

6. **PENDING MOTIONS:**

None.

7. **STATEMENT OF PARTY'S PENDING REQUESTS OR CLAIMS FOR CONFIDENTIALITY:**

None.

8. **OBJECTIONS TO QUALIFICATION OF WITNESSES AS AN EXPERT:**

None at this time.

9. **STATEMENT OF COMPLIANCE WITH ORDER ESTABLISHING PROCEDURE:**

There are no requirements of the Order Establishing Procedure with which the Office of Public Counsel cannot comply.

Dated this 1st day of September, 2009.

Respectfully submitted,

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_s/Charles J. Rehwinkel__
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of the State of Florida

<u>CERTIFICATE OF SERVICE</u>
<u>DOCKET NO. 090079-EI</u>

I HEREBY CERTIFY that a copy of the foregoing **<u>PREHEARING STATEMENT OF THE OFFICE OF PUBLIC COUNSEL</u>** has been furnished by U.S. Mail on the 1st day of September 2009.

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