

BEFORE THE  
FLORIDA PUBLIC SERVICE COMMISSION

DOCKET NO.: 041272-EI

In the Matter of:

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.



PROCEEDINGS: Ocala Service Hearing

BEFORE: CHAIRMAN BRAULIO L. BAEZ  
COMMISSIONER J. TERRY DEASON  
COMMISSIONER RUDOLPH "RUDY" BRADLEY  
COMMISSIONER CHARLES M. DAVIDSON  
COMMISSIONER LISA POLAK EDGAR

DATE: March 15, 2005

TIME: Commenced at 10:05 a.m.  
Concluded at 11:30 a.m.

PLACE: City Council Chambers  
City Hall, 2nd Floor  
151 S.E. Osceola Avenue  
Ocala, Florida

REPORTED BY: Ellen S. Salenger, CSR, RPR  
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## 1 APPEARANCES :

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4 Service Company, LLC; P.O. Box 14041 Saint  
5 Petersburg, Florida, 33733-4042, appearing on behalf  
6 of Progress Energy Service Company, LLC.  
(St. Petersburg.)7 PATRICIA A. CHRISTENSEN, Associate  
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10 32399-1400.11 MICHAEL B. TWOMEY, ESQUIRE, P.O. Box  
12 5256, Tallahassee, Florida, 32314-5256, appearing on  
13 behalf of Buddy Hansen, Sugarmill Woods.14 JENNIFER S. BRUBAKER, ESQUIRE, FPSC  
15 General Counsel's Office, 2540 Shumard Oak  
16 Boulevard, Tallahassee, Florida, 32399-0863,  
17 appearing on behalf of the Florida Public Service  
18 Commission Staff.  
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13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

INDEX  
WITNESSES

NAME :	PAGE NO.
Jeff Lyash	17
Lyle Steady	38
Jaye Baillie	41
Officer Chip Wildy	44
George Borchers	49

EXHIBITS

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
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22  
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## P R O C E E D I N G S

1  
2 CHAIRMAN BAEZ: Good morning.

3 I would like to call the service hearing to  
4 order.

5 Counsel, will you read the notice?

6 MS. BRUBAKER: Pursuant to notice, this  
7 time and place has been scheduled to conduct a  
8 hearing in Docket No. 041272-EI for the purpose of  
9 taking customer testimony in this proceeding. The  
10 purpose of the hearing is set forth in the notice

11 CHAIRMAN BAEZ: Thank you, Ms. Brubaker.

12 I want to welcome you all this morning to the  
13 service hearing. Those of you, those customers who  
14 are here to get some input on these petitions by  
15 Progress Florida, we appreciate you taking the time  
16 to come out.

17 This is, for those of you who have never  
18 participated in one of these, this is an official  
19 hearing. Your statements -- the statements that you  
20 make here today will become part of the official  
21 record of this case.

22 So at some point on down the line, before you  
23 give testimony, we're gonna swear all those who are  
24 here to give testimony.

25 Please pardon my rudeness. I did not introduce

1 myself.

2 My name is Braullio Baez and I am the Chairman  
3 of the Public Service Commission. With me are the  
4 other members of the Public Service Commission, and  
5 I'll start at stage left: Commissioner Lisa Edgar,  
6 Commissioner Rudy Bradley, Commission Terry Deason,  
7 and Commission Charles Davidson.

8 Again, we want to thank you all for coming out  
9 and taking the time. This is a very important part  
10 of our process and it is the best opportunity for  
11 customers that live in the impacted areas, and in  
12 any case, to come before us and let us know what you  
13 think and give us your input.

14 Brief housekeeping matters: While you were  
15 walking in, you may have noticed a table set up with  
16 some brochures. The tables also contain sign-up  
17 sheets.

18 Those of you that are gonna give testimony  
19 today, or if you want to, you do need to sign it,  
20 and if you haven't done so already, you can go out.  
21 We have two Public Service Commission staffers that  
22 are out there ready to help you with any information  
23 you need to help you sign in.

24 As well, I've been informed that Progress does  
25 have a room, I guess it's across this foyer here.

1 If any customers are here, happen to have billing  
2 issues or other service issues with the company, you  
3 do have an opportunity to go back and speak to one  
4 of the company representatives, and I'm sure that  
5 they will be happy to help solve your problem here  
6 today.

7 Briefly, we're going to be hearing some  
8 presentations from the parties. I'm not sure if all  
9 the parties have presentations, but I know the PSC  
10 staff does have a brief presentation and I know that  
11 the company has one as well.

12 So without further ado, what I would like to do  
13 is take some appearances at this point.

14 Court reporter, can you hear us all right?

15 COURT REPORTER: It could be a little louder.

16 CHAIRMAN BAEZ: It could be a little louder.

17 Then I'll make sure and put my parent voice on.

18 (Laughter.)

19 CHAIRMAN BAEZ: As you'll notice, we don't have  
20 mikes up there, so as you just heard, our kind court  
21 reporter suggests, please speak up and let her get  
22 your name, or you can step up to the microphone.

23 So we'll go ahead and take appearances.

24 MR. MCGEE: Thank you, Mr. Chairman.

25 My name is Jim McGee. I'm representing

1 Progress Energy Florida. My address is Post Office  
2 Box 14042, St. Petersburg, 33733.

3 MS. CHRISTIANSEN: Good morning. Patti  
4 Christensen with the Office Of Public Counsel  
5 representing the citizens of Florida.

6 MR. TWOMEY: Good morning, Mr. Chairman and  
7 Commissioners.

8 My name is Mike Twomey. I'm appearing on  
9 behalf of Bud Hansen individually and the Sugarmill  
10 Woods Civic Association, Inc.

11 My address is Post Office Box 5256,  
12 Tallahassee, Florida, 32314-5256.

13 MS. BRUBAKER: And Jennifer Brubaker here on  
14 behalf of the Florida Public Service Commission.

15 CHAIRMAN BAEZ: Thank you all.

16 The one thing I failed to mention, those  
17 customers that are here and do not wish to speak  
18 publicly do still have an opportunity to provide  
19 your comments in writing.

20 On the table outside, as I mentioned, you'll  
21 see a blue handout, if you will, with a summary of  
22 the case that's before us and that we're considering  
23 today. And I guess it's on the last page, there is  
24 space for you all to enter your written comments.

25 You can leave them with the PSC staff and they'll be



1 happy to enter them into the record on the  
2 corresponding side.

3 And as well, if you don't feel like doing that  
4 now, at any time up to the resolution of the case,  
5 you can provide comments on-line, you can provide  
6 written comments and provide them to the Public  
7 Service Commission by fax. As I mentioned, you can  
8 also go on line to provide your comments that way.

9 At this point, I think, Ms. Brubaker, do we  
10 need to do anything before we get started with the  
11 presentations?

12 MS. BRUBAKER: I think that's it.

13 MR. BAEZ: All right. Very well.

14 Then I will hand it over to you.

15 MS. BRUBAKER: Thank you, Chairman.

16 As I read from the notice earlier today, we're  
17 here to take customer testimony in Docket 041272-EI.  
18 That's the petition filed by Progress Energy Florida  
19 for approval of the Storm Cost Recovery Clause. The  
20 clause is being requested to recover expenditures  
21 that were incurred from Hurricanes Charley, Frances,  
22 Jeanne and Ivan, all during the 2004 hurricane  
23 season.

24 The purpose of the clause, as I said, is to  
25 recover the storm damage costs that are in excess of

1 the amount that is contained in the utility's Storm  
2 Reserve.

3 Progress has requested in its petition a  
4 recovery of the excess storm damage cost over a two  
5 year period.

6 All of the large Investor-owned Electric  
7 Utilities, or IOUs, in the state have been accruing  
8 an annual amount each year through base rates, which  
9 goes into the company's storm reserve. After  
10 Hurricane Andrew, the Commission allowed the  
11 electric companies, such as Progress, to establish  
12 these storm reserves because insurance for  
13 Transmission and Distribution systems became  
14 unaffordable. Progress has been accruing \$6,000,000  
15 per year into its storm reserve.

16 By its petition, Progress is requesting to  
17 recover approximately \$251.9 million dollars.

18 In the slide here to my left, you can see how  
19 the company's arrived at that amount.

20 The total damage amounted to \$366.3 million,  
21 from which the company has removed 54.9 million  
22 which is capitalized. The company is not requesting  
23 recovery through this petition for this capitalized  
24 portion.

25 The company also removed the non-retail portion

1 of 12.6 million. Then it subtracted the amount that  
2 it accrued in the storm reserve over time of \$46.9  
3 million dollars.

4 This final amount is the amount in excess of  
5 the storm reserve, which is at issue in this  
6 proceeding.

7 Progress has included what they believe to be  
8 the expected impact on the average residential  
9 customers' bill, based on the usage of 1,000 KW  
10 hours per month. The first twelve months was  
11 expected to be approximately \$3.81 per month. The  
12 second year would be slightly less at \$3.59 per  
13 month.

14 I would like to talk a little bit about the  
15 Commission hearing process also at this time.

16 The Commission will process the company's  
17 petition to arrive at a final decision.

18 The process starts when the company files its  
19 petition. After it's filed, Commission staff begins  
20 its discovery process.

21 There are -- have been intervenors in this  
22 matter including the Office of Public Council, The  
23 Florida Industrial Power Usage Group, and the  
24 (inaudible.) They've also conducted their own  
25 discovery process.

1           Service hearings are scheduled and held to hear  
2 from the customers. Finally, a technical hearing  
3 will be held, which is scheduled for March 30th,  
4 31st, and April 1st. That will be held in  
5 Tallahassee.

6           During the technical hearing, the company and  
7 the intervenors will present evidence through  
8 witnesses to help the Commission decide how the  
9 issues should be decided for this case.

10           I wanna talk to you a little bit more about the  
11 service hearing. The purpose of the service hearing  
12 today is to hear from the customers so we can take  
13 customer input and factor that into how the  
14 Commission should decide this case.

15           The Commission is very interested in hearing  
16 customer testimony concerning the company's request  
17 and it's also interested in having customers'  
18 opinions to help the company's efforts to recover  
19 from each hurricane and restoring electrical service  
20 should be factored into this petition on this  
21 docket.

22           The company and intervenors will get their  
23 chance when they present sworn testimony and  
24 evidence at the technical hearing in Tallahassee.

25           Because this is a hearing, much like a court

1 proceeding, you will be asked to be sworn in as a  
2 witness so your comments or testimony can be used in  
3 this proceeding and in any future court challenges  
4 that might occur.

5 Turning now to what happens at the technical  
6 hearing in Tallahassee: Before the hearing, each  
7 party will be responsible for prefiling testimony  
8 for any witnesses that they intend to present at the  
9 hearing.

10 As I talked before, they will also be  
11 responsible for taking discovery such as depositions  
12 of witnesses. They must attend the technical  
13 hearing, they must present their witnesses, who will  
14 be subject to cross-examination by all parties, and  
15 once the hearing is completed, the parties will be  
16 responsible to filing legal briefs, which are a  
17 summary of the evidence that was presented at the  
18 hearing, and to present their opinion on how they  
19 believe the Commission, based on the evidence,  
20 should decide the case.

21 After the hearing is concluded, there's a  
22 period of time in which Commission staff will put  
23 together recommendations to the Commissioners based  
24 on the evidence that's been presented at the service  
25 hearing and the technical hearing. The

1 recommendation is filed with the Clerk of the  
2 Commission and set for an agenda conference before  
3 the Commissioners. There is no participation  
4 allowed of the parties at the final agenda  
5 conference. Only staff may participate at that  
6 point.

7 The final agenda for this case is currently  
8 scheduled for June 14th, 2005. Once the Commission  
9 makes a decision, it's set out in an order, and at  
10 that point, any party who wishes to seek review of  
11 that order will take it to the Florida Supreme Court  
12 if they believe such an action is warranted.

13 I'd like to comment next on the hurricane  
14 related activities that are currently ongoing at the  
15 Commission.

16 The first deals with underground power lines.  
17 There's been a lot of questions about the power  
18 lines subsequent to the hurricane season. And  
19 currently, customers' existing rates are based on  
20 the cost of overhead facilities. The cost of  
21 converting underground has always been borne by the  
22 requesting customers to avoid subsidization.

23 Currently, the Commission is conducting a study  
24 of the cost of IOUs converting to underground, and  
25 the results of that study will be given to the

1 Legislature at some point during this legislative  
2 session.

3 The second area relates to tree trimming. The  
4 Commission routinely monitors tree trimming of each  
5 Investor Owned Utility. Each IOU is required to  
6 file an annual Distribution Reliability Report with  
7 the Commission. And it provides data and  
8 (inaudible) which are analyzed to reach unit and by  
9 problem areas. These areas might include vegetation  
10 management, compliance with voltage standards,  
11 electric outage causation, and customer complaints.

12 In addition to the annual reliability review,  
13 the Commission initiated a quality of service audit  
14 of all IOUs in September of 2004. And this  
15 management audit will provide a comprehensive report  
16 on current utility management practices affecting  
17 reliability and quality of service.

18 The Progress review is targeted for completion  
19 in October of 2005.

20 Next slide.

21 Last, I'd also like to mention that Progress  
22 has notified the Commission on January 28th,  
23 2005 that it will be filing an application for a  
24 general rate increase to its base rate. They intend  
25 to file this application by May 1st, 2005.

1           The service hearing today has nothing to do  
2 with that request. When the petition is filed, it  
3 would be handled as a separate filing which would  
4 then include separate service hearings in the  
5 future.

6           And Commission Baez, that completes the  
7 presentation.

8           CHAIRMAN BAEZ: Thank you, Ms. Brubaker.  
9           Mr. McGee, do you have a question,  
10 comments about her opening remarks?

11           MR. MCGEE: Mr. Chairman, Commissioners, my  
12 name is Jim McGee. I'm here to introduce Mr. Jeff  
13 Lyash, who is Progress Energy Florida Senior  
14 Vice-President for Energy Delivery. He's  
15 responsible for the company's four operating  
16 regions, including the north central region that  
17 includes the Ocala area. And he will have a  
18 presentation to make.

19           I wanted to mention, though, the point that you  
20 had talked about earlier. We have a number of  
21 customer service representatives who are in the room  
22 as well. They're set up with on-line terminals in  
23 the next room and that should provide specific  
24 information for customer accounts.

25           Customers who have questions that perhaps go



1 beyond the information that's immediately available,  
2 we will take down those questions, do an  
3 investigation, and attempt to respond to the  
4 customers within 24 hours.

5 We will also compile those responses and file  
6 them as a report with the Commission with a separate  
7 report from each of the six service hearings that  
8 have been scheduled.

9 With that, I'd like to ask Mr. Lyash if he  
10 would make his presentation.

11 Thereupon,

12 JEFF LYASH,

13 being by the Chairman first duly sworn, testified as  
14 follows:

15 MR. LYASH: Good morning. My name is Jeff  
16 Lyash. I'm the Senior Vice-President for Energy  
17 Delivery in Florida for Progress Energy and I'm  
18 based out of St. Petersburg.

19 I want to thank the Commissioners and the local  
20 elected officials and citizens and staff that are  
21 here this morning for the opportunity to address you  
22 and hear feedback from our customers.

23 Preparing for a -- I should say, the manner in  
24 which we respond to a hurricane really starts long  
25 before a hurricane arrives. So one of the things we

1 focus on extensively is preparing the system,  
2 operating reliably during normal conditions, and to  
3 sustain, to the extent that it's possible, it's  
4 performance during and after a hurricane.

5 Toward that end, over the last three years,  
6 we've invested about \$120,000,000 in upgrading,  
7 maintaining, improving our system over and above our  
8 base budgets.

9 And that investment has been effective.  
10 Looking at our performance trends, we've seen pretty  
11 substantial improvements in reliability, in personal  
12 safety, in customer satisfaction, while maintaining  
13 stable order during a time of crisis.

14 We're very proud of that, and I think it bore  
15 itself out well during the storms.

16 But we're never satisfied with the level of  
17 performance we currently have. So we are always  
18 looking for ways to do this better and we will  
19 listen very carefully and act on any feedback from  
20 customers during this series of service hearings.

21 The Hurricane Season: This has been an  
22 unprecedented hurricane season. I think that goes  
23 without saying. We had in excess of five million  
24 customers impacted over the course of those four  
25 hurricanes.

1           We consider hurricane response and severe  
2 weather response to be one of our obligations. This  
3 is a product that we focus on in preparing for, so  
4 not just getting the system ready to perform  
5 reliably but getting the staff ready. And we plan  
6 with a structured storm response plan.

7           That plan applies to our operations here in  
8 Florida as well as the Carolinas.

9           We benchmark industry-wide against best  
10 practices on an ongoing basis and try to make  
11 improvements every year.

12           We drill this plan. We drill it ourselves and  
13 we drill it with state and local EOC folks to test  
14 it out and make sure we're ready to go.

15           Our efforts in this area have been recognized a  
16 number of times by the Edison Electric Institute.  
17 As a matter of fact, we've been recognized five  
18 different years as one of the top performance storm  
19 response organizations in the country. That's more  
20 than any other utility in the United States. And  
21 like I said, we cross our jurisdictions in North and  
22 South Carolina and Florida.

23           As I said, in preparing the system, prepare  
24 your organization and your plan, and then when  
25 you're confronted with a hurricane like this, we

1       implement that plan.

2               Hopefully, it's in good shape. We've tested  
3 with our EOCs, all the players are familiar with it,  
4 and then it's a matter of execution.

5               We begin at least 72 hours before a storm,  
6 watching that track and running our damage models  
7 given the strength and predicted strength and path  
8 of the storm calculating what we think the damage  
9 will be. What does that imply in terms of needed  
10 materials, in needed manpower? Where should it be  
11 staged, what staging sites and logistics do we need  
12 to establish, and how will we route these resources?

13              Then we have a 48 hour point, we begin to  
14 mobilize. Resources are moving inside the state,  
15 outside the state from our assisting affiliate in  
16 the Carolinas, and in the case of some of these  
17 storms, from across the country, in order to be  
18 here.

19              24 hours before the storm, we're really into a  
20 process of fine tuning. How did the storm track  
21 change, what did the intensity of the storm run,  
22 where do we have our resources positioned, and do  
23 they need to be repositioned or tuned to enable us  
24 to perform optimally?

25              So by the time the storm strikes, we are out of

1 the playing phase, we're into execution with hands-  
2 on line resources as well as damage assessment and  
3 engineering personal on station ready to go.

4 Once the storm hits, we really work through  
5 three significant priority activities. The first is  
6 getting out and doing a damage assessment. Really,  
7 to respond effectively, you have to evaluate your  
8 entire system, characterize the damage so you can  
9 effectively plan and deploy your resources, make  
10 those last set of adjustments. We work this in  
11 priority order.

12 One of the ways we try to insure priority  
13 before the storm is by setting up priority  
14 restoration items, but perhaps even more  
15 importantly, we work with state and local officials,  
16 we work heavily with the EOCs in cities and counties  
17 at the state level so that we insure we're being  
18 responsive to their needs. That results in this  
19 first building after the backbone; transmission and  
20 feeder backbone.

21 And shortly thereafter, beginning to restore  
22 those areas that the EOCs deem critical. These are  
23 hospitals, schools that are used as shelters, sewage  
24 lift stations, water treatment plants, perhaps red  
25 lights at major intersections so we can relieve the

1 police force so that they can move on from directing  
2 traffic to other important duties. And we put those  
3 sorts of things at the top of the list. We work  
4 very hard to keep EOCs informed of progress and take  
5 feedback.

6 Beyond that, we move into the bulk customer  
7 restoration, and that is primarily driven by how to  
8 get the most people back in the least amount of  
9 time. Because, again, that tends to offload the  
10 infrastructure and the emergency response  
11 organizations that help people get back to normal  
12 lives.

13 And the last point, though, is that we  
14 communicate with the customers. Our commercial and  
15 industrial account managers communicate with their  
16 accounts. We man each of the EOCs so that we can  
17 communicate continuously with the local elected  
18 officials who are managing the response, we  
19 advertise to reach out to the public to provide  
20 information, and -- but lastly, our call centers  
21 interface one-on-one with customers, and we try to  
22 provide estimated restoration times.

23 Early in a storm, that's difficult. However,  
24 we move to try to set as many restoration times as  
25 rapidly as possible, usually within a day, and we

1 work over the course of the storm to make those  
2 times more and more specific, pulling forth where we  
3 can and to meet the times that we give so that  
4 people can plan their lives.

5 I'm sure everybody is familiar with this; four  
6 storms, six weeks, as I said, over 5,000,000  
7 individuals affected in our service territories  
8 spread across 35 counties.

9 We involved in an aggregate of storms over  
10 20,000 resources in responding to this. More than  
11 2600 miles of transmission lines on the ground, 270  
12 substations out of service.

13 Given this scope of work for four storms, the  
14 average customer restoration time, average time  
15 without power, averaged just under three days.

16 While we're here in Ocala -- and, of course,  
17 you know, those are broad system numbers, you know  
18 Ocala and this north coastal area were significantly  
19 affected.

20 During Hurricane Frances, we had 114,000  
21 customers out. The restoration time to restore all  
22 these customers during Frances in this particular  
23 area was seven days.

24 In Jeanne, we had 84,000 customers out here and  
25 the restoration time was roughly four days.

1           We work very closely and we really appreciate  
2           the efforts of the counties here, Marion, Hernando  
3           County, Citrus County. Those officials worked very  
4           closely with us and, in fact, they give us good  
5           feedback all during the storms.

6           During Frances, we recognized that we had some  
7           communications issues, as an example, with Marion  
8           and Citrus County officials and EOCs. We weren't  
9           doing the job we could have done at reconciling the  
10          priorities and help to get roads open, and we took  
11          that feedback and were able to correct that issue  
12          early on, and I think they were happy with the  
13          performance beyond that.

14          We'll have issues come up today in these  
15          hearings I'm sure the customers will raise. And as  
16          I said earlier, that's important feedback. We'll  
17          take that and we'll incorporate that into our storm  
18          planning phase.

19          Of course, what this hearing's about is our  
20          storm cost recovery filing. And a couple of points  
21          I'd like to make on this is this really was an  
22          unprecedented storm system. These four storms in a  
23          period of six weeks is not something that certainly  
24          that Florida has seen, not something that Progress  
25          Energy had seen, and really not something the



1 country had seen in quite a long period of time.

2 You will likely hear some others contend that  
3 this risk should be borne by our shareholders or  
4 absorbed by the company. And we just don't see that  
5 as the proper approach.

6 Our view of this is that we focused during this  
7 these storms on the mandate that we were given,  
8 which is to restore power as rapidly and efficiently  
9 as possible working with the EOCs so that the state  
10 economy could get back on its feet, and that is what  
11 we did, and we accepted some risk in doing that.

12 There were lost revenues that will never be  
13 seen again. Frankly, there are large backlogs of  
14 work that we were unable to do during the hurricanes  
15 that we carried forward and we are still working to  
16 eliminate. That is a long term effort. That's work  
17 that didn't happen during the hurricanes, still  
18 needs to be done, and we will be doing that.

19 As was mentioned earlier, after Hurricane  
20 Andrew, there was a process set up to govern this.  
21 I think it was very well thought out and directed by  
22 the PSC, and that's the process we're following.  
23 And we believe these costs were prudently incurred  
24 and we believe that will be borne out in the end.

25 In closing, this is a calendar of about two

1 months. And what you can read here is that all that  
2 color coding is either preparing for, dealing with,  
3 or recovering from a hurricane.

4 So, in fact, this was a non-stop effort for our  
5 company as well as others for the better part of two  
6 months just consuming the organization.

7 Our system, I think, was well prepared for  
8 this. And I think the reliability statistics on  
9 line bear that out.

10 Of course, no system can be designed really in  
11 a cost effective manner to tolerate the sort of  
12 extreme conditions we saw, so damage resulted. But  
13 we believe that our organization was prepared to  
14 deal with it and we did a relatively good job.

15 We're seeking to recover the cost now  
16 consistent with the process that was laid out post-  
17 Andrew and we'll support the process as it moves on.

18 I want to reiterate that we are responsive to  
19 feedback. We have been during the hurricanes and we  
20 will be to the feedback in these hearings, because  
21 while we feel confident that our operation is sound  
22 and the performance is good, cost improvement is  
23 good, we believe equally strongly that there's  
24 always room for improvement and that we will go  
25 ahead and take action to make that the case coming

1 out of these hearings.

2 Thank you very much.

3 CHAIRMAN BAEZ: Thank you, Mr. Lyash.

4 Ms. Christensen, who is with the Office of  
5 Public Counsel.

6 MS. CHRISTENSEN: Good morning. My name is  
7 Patti Christensen. I'm with the Office of Public  
8 Counsel.

9 The Office of Public Counsel has been created  
10 by the Florida Legislature for the Florida Public  
11 Service Commission to demonstrate (phonetic) the  
12 crisis.

13 We represent the citizens of the State of  
14 Florida in this matter.

15 As you have heard, Progress is asking the  
16 Commission to allow it to collect some \$252,000,000  
17 from customers for the cost Progress says are  
18 associated with the hurricanes.

19 As citizens' representatives, we are actively  
20 looking at the costs Progress is asking to collect  
21 from customers.

22 We don't believe that all of the costs Progress  
23 wants to collect through an additional charge on  
24 customers' billing should be allowed.

25 We have two major issues with these costs:

1           First, it's our position that customers should  
2 only have to pay once for a service or activity that  
3 Progress performs.

4           We believe that the evidence will show that  
5 some of the costs Progress asks to collect through  
6 an additional storm charge have already been paid  
7 for by customers through base rate.

8           An example of this is Progress to pay regular  
9 salaries. This is an example of double dipping  
10 because Progress employees who have worked on storm  
11 related repairs would have been on the job for a  
12 portion of that time anyway, their normal workday,  
13 even without the storm.

14           So the cost of Progress employees' regular  
15 salaries are already built into base rate and should  
16 not be charged to customers again through an  
17 additional storm charge.

18           This example and others of double dipping  
19 should not be allowed.

20           Second, we believe that the cost of the  
21 hurricanes should be shared fairly between the  
22 company and the customers.

23           We disagree with Progress's position in this  
24 case which was passed on almost a hundred percent of  
25 the cost associated with the 2004 hurricanes to

1 customers.

2 We believe that Progress should contribute a  
3 portion of its earnings, profits, to pay for the  
4 cost of the storms. There are a couple of reasons  
5 for this:

6 One, Progress assigned a settlement in its last  
7 rate proceeding in 2002 that said it would not ask  
8 for an increase in base rate unless its return on  
9 its investment first fell to 10 percent.

10 Even with the 2004 hurricanes, Progress earned  
11 well above 10 percent return on investment in 2004.

12 Because of this settlement, Progress should use  
13 its earnings above the 10 percent return on  
14 investment towards the storm costs.

15 Second, even without the settlement, customers  
16 should not have to bear close to 100 percent of the  
17 cost for the 2004 hurricane season.

18 Progress is paid in its base rate for the risk  
19 of doing business in Florida. This risk includes  
20 the risk of the hurricanes. So we believe the  
21 customers should not have to insure the company  
22 against all hurricane losses. So it's only fair and  
23 reasonable that the company should use its earnings  
24 above the 10 percent return on its investment for  
25 the storm costs.

1           If the Commission agrees with all the citizens'  
2 positions, this will result in a reduction of the  
3 storm recovery request for 252 million to 123  
4 million retail. A reduction of approximately  
5 \$128,000,000.

6           Thank you.

7           MR. BAEZ: Thank you, Ms. Christensen.

8           Mr. Twomey, you have a word?

9           MR. TWOMEY: Yes, sir, I do.

10          Mr. Chairman, I'm -- I would only ask if the  
11 customers in the room would identify themselves by  
12 holding up their hands.

13          One. Okay. Thank you, sir.

14          Mr. Chairman, Commissioners, as I said earlier,  
15 I'm Mike Twomey. I'm appearing on behalf of Bud  
16 Hansen and the Sugarmill Woods Civic Association,  
17 Inc., who are located in Citrus County, as many of  
18 you know, and who suffered -- this community  
19 suffered a fair amount of damage during these  
20 hurricanes.

21          First, I want to commend the company on their  
22 efforts to rapidly repair their system as fast as  
23 they could. I don't mean to suggest that that  
24 should preclude any customers that feel that their  
25 service wasn't resumed as fast as possible shouldn't

1 say so.

2 The company had a big effort, as did the rest  
3 of utilities in the state, to recover their systems,  
4 restore service, and they should be commended for  
5 particularly their line personnel who had to get out  
6 in the weather and brave the elements to do this.

7 That said, it doesn't mean these companies --  
8 this company in particular today, should receive a  
9 blank check for recovering from its customers all of  
10 the monies it claims to have expended in restoring  
11 its system.

12 The sequence we would like to see followed,  
13 Commissioners, in your hearings, your technical  
14 hearings in Tallahassee would be this, as said by  
15 the fellow counsel a moment ago: You need to  
16 eliminate all double accounting. That is, you need  
17 to make sure that the pot of money you consider  
18 imposing upon utility's customers through a sur-  
19 charge do not include any unreasonable and imprudent  
20 expenses. And those unreasonable and imprudent  
21 expenses would, of necessity, include any expenses  
22 that normally would be included in their annual  
23 maintenance. Annual maintenance expenses, of  
24 course, having already been paid for once by the  
25 utilities customers through their base rate.

1           You have to strip out all those things, the  
2 accelerated depreciation on vehicles, hours that  
3 people normally would spend, and look at the  
4 overtime and that kind of thing, the wages, salaries  
5 for people out of state, and then get that pot  
6 narrowed as much as possible.

7           Then what we would ask you to do is consistent  
8 with what public counsel just said, and that is, you  
9 need to decide, Commissioners, how much of the  
10 financial pain, how much of the financial burden  
11 you're gonna ask this company's shareholders to  
12 experience along with its customers.

13           As it stands right now, and you just heard the  
14 senior vice-president say he doesn't think -- the  
15 company doesn't think that their shareholders should  
16 have to share in a penny or a dollar's worth of the  
17 repair costs as a result of these storms experienced  
18 in 2004.

19           Now, I'll tell you, I think that's just  
20 selfish. It's selfish on behalf of the company.  
21 They need to reflect more closely, I would suggest,  
22 on what they're asking of this Commission and what  
23 they're asking of their customers.

24           Now, according to the insurance industry, there  
25 was roughly 17.5 billion dollars in storm damage and



1 wind damage, a lot was experienced in 2004 as a  
2 result of these four storms. I don't know what  
3 portion of that fell in Progress Energy's service  
4 territory and upon its customers. But we know from  
5 reading the general press that few people, few  
6 customers, whether they be residential or business,  
7 few customers that were in the path of these storms  
8 escaped without some type of financial damage that  
9 was uncompensated by insurance companies, the  
10 federal government, FEMA, or others.

11 We know, for example, that a huge number of  
12 people had to pay at least one insurance deductible  
13 on their home. Goes without saying that most people  
14 that lost their power, at a minimum, suffered the  
15 loss of perishable food. Business owners lost the  
16 use of their businesses for days, weeks, and perhaps  
17 months.

18 The point is that customers, many of them that  
19 were in the path of the storm, have experienced  
20 financial damage already irrespective of this  
21 request for y'all to impose surcharges on them for  
22 the next two years.

23 Now, what is the Commission's precedent for  
24 dealing with hurricane damages in storms of this  
25 nature?

1           It's been said, the size of these storms is  
2 truly unprecedented in modern times. But dealing  
3 with hurricane costs, hurricane recovery efforts, is  
4 not unprecedented by this Commission, as y'all know.  
5 And it's strictly -- Commissioner Deason has been  
6 here longer, he would know more than the others, but  
7 it's not unprecedented.

8           And what you've done in the past, as I  
9 understand your orders, is that outside of the  
10 monies you've allowed them to collect, the companies  
11 to collect, for storm damage reserves, you have told  
12 them, when there's been individual cases, that  
13 you're not gonna give them surcharges outside of a  
14 rate case or a special hearing.

15           And even in those cases, Commissioners, what  
16 you would do is you would make the increases  
17 prospective. You would allow them to accumulate  
18 more money going forward to recharge their storm  
19 damage fund, the reserve fund, but you wouldn't let  
20 them make anything up retroactively.

21           That's what this company is asking you to do in  
22 this case, to be clear, is to pay for past damages  
23 through future rates.

24           You haven't done it in the past and you  
25 shouldn't do it again. Because contrary to what

1 some consumers may believe, these companies are not  
2 cost plus companies. They are not cost plus  
3 companies.

4 Rather, as y'all know, when they come in for  
5 rates or when you sign off on a settlement  
6 agreement, what's understood is that you set or  
7 approve rates that allow this company and the others  
8 an opportunity, and that's the key word, an  
9 opportunity, to recover their reasonable and prudent  
10 expenses expended in the course of providing service  
11 and to give them an opportunity to earn a fair and  
12 reasonable profit. That's ongoing forward basis.

13 So what they're asking you for here, what  
14 Progress Energy is asking you to do here is to go  
15 back, despite the fact that they made, I believe it  
16 was in the calendar year 2004, they reported to Wall  
17 Street and SEC, I believe they made 13.48 percent  
18 return on behalf of -- correct me if that's wrong.  
19 They made a very high return notwithstanding the  
20 storm damages they suffered and lost sales,  
21 presumably, and they have an agreement with my  
22 client and the public counsel and FIFO that says  
23 that there'll be a certain amount of sharing, but if  
24 they get in a position for some reason that they  
25 would be forced to earn less than 10 percent, which

1 I would suggest for you is a relatively decent  
2 return in today's market, if they're forced to earn  
3 less than 10 percent. then they can come back in for  
4 rate increases.

5 So, along with the public counsel, my client  
6 would adopt the public counsel's position and that  
7 taken by FIFO and urge you Commissioners after you  
8 get the pot of money right, that is, you get the  
9 reasonable and prudent expenses only, you need to  
10 look at this company and say to the shareholders,  
11 when you buy stock in an electric utility, or any  
12 utility or business in the state of Florida, you  
13 shouldn't act surprised if that business, along with  
14 the rest of the state, gets hit occasionally with a  
15 hurricane. And you have to say, we want you to say  
16 that's a business risk that y'all undertook. And we  
17 recognized it when we authorized whatever rate  
18 return we gave them.

19 And what we ask you to do, Commissioners, is to  
20 make this company and make its shareholders  
21 participate in sharing the financial burden with its  
22 customers, many of whom have already suffered a  
23 great deal, and make them experience and pay for the  
24 cost of restoring and rebuilding their own utility.

25 The utility doesn't belong to my client and the

1 rest of these customers. It belongs to the  
2 shareholders, and the shareholders ought to have the  
3 responsibility for paying for part of the  
4 restoration of their business.

5 So in closing, I would ask you to make this  
6 company and its shareholders pay until it gets them  
7 down to 10 percent, which is not to say that they  
8 can't earn a profit. It would say they can still  
9 earn a decent profit of 10 percent and only after  
10 they have spent their way down to 10 percent, make  
11 the customers pay the rest.

12 Thank you.

13 CHAIRMAN BAEZ: Thank you, Mr. Twomey.  
14 Appreciate your comments.

15 At this point, we're gonna start taking public  
16 testimony.

17 Those customers that are here to give their  
18 input, as I mentioned earlier, you need to be sworn.  
19 So at this time, if there's anyone out in the  
20 audience that's here to give public testimony, would  
21 you stand up and raise your right hand?

22 (The witnesses wishing to testify were sworn in  
23 by Chairman Baez.)

24 CHAIRMAN BAEZ: Ms. Christensen, go ahead and  
25 call the first customer.

1 MS. CHRISTENSEN: Mr. Lyle Steady.

2 CHAIRMAN BAEZ: When you do come up, state your  
3 name, address and telephone number for the record.

4 Thereupon,

5 LYLE STEADY,

6 being by the Chairman first duly sworn, testified as  
7 follows:

8 MR. STEADY: My name is Lyle Steady, my  
9 address 1083, Summerfield, 34482. My phone number  
10 is 266-3579. Area code 352.

11 I'm here to speak on behalf of a large  
12 utility in Marion County. It's On Top Of The World.  
13 I am the senior operator for that utility.

14 We represent some 6,000 customers there and  
15 maintain water and sewer system for them.

16 We were one of the few that never had to  
17 have a boiled water notice issued to any of them.  
18 Their safety was never in danger as a result of the  
19 quick response time from this corporation.

20 We work very close with them, they work  
21 very close with us. We're very pleased with them.  
22 If there's any improvements that need to be done, we  
23 are not aware of them. We are very satisfied with  
24 them.

25 We have a couple of the letters of

1 recommendation we would like to present. We also  
2 have general notes from our secretaries in contact  
3 with them during these storms.

4 Would you like to review these?

5 CHAIRMAN BAEZ: I'm not sure if we can go  
6 ahead and accept them.

7 How do we treat customers?

8 MS. BRUBAKER: We take them in subject to  
9 objection.

10 CHAIRMAN BAEZ: All right. Mr. Steady, you can  
11 go ahead and provide them to Ms. Christensen and she  
12 will make sure, have them introduced into the  
13 record.

14 MS. BRUBAKER: We can identify them at the  
15 time, and if public counsel believes it should be  
16 submitted into the record, we can hear them.

17 CHAIRMAN BAEZ: Very well. I'll just make  
18 notations that Mr. Steady has provided us the first  
19 exhibit.

20 Mr. Steady, we're gonna accept that subject to  
21 objection on the part of the state. And we'll have  
22 the right to look at them and question and we'll  
23 make up our ruling for the record at a later date.

24 But I do appreciate -- those are copies; right?

25 MR. STEADY: Yes, sir

1 (The Letters were marked I.D. Exhibit No.  
2 1.)

3 CHAIRMAN BAEZ: All right. Mr. Steady, do  
4 you have any other comments?

5 MR. STEADY: No, sir.

6 CHAIRMAN BAEZ: Commission, do you have any  
7 questions of the witness?

8 COMMISSIONER DEASON: I have one. What was the  
9 name of the utility again?

10 THE WITNESS: It's On Top Of The World.

11 COMMISSIONER DEASON: And you have how many  
12 customers?

13 MR. STEADY: We represent nearly 6,000  
14 residents.

15 COMMISSIONER DEASON: And what area do you  
16 serve.

17 MR. STEADY: The north -- I think it's the  
18 northwest area. It's out here on 200.

19 COMMISSIONER DEASON: Okay. So you're right  
20 here in Ocala.

21 MR. STEADY: Yes, sir, uh-huh.

22 CHAIRMAN BAEZ: Mr. McGee or Mr. Twomey, any  
23 questions?

24 MR. MCGEE: No.

25 MR. TWOMEY: No.



1 CHAIRMAN BAEZ: Mr. Steady, thank you very much  
2 for coming. We appreciate your input.

3 MS. CHRISTENSEN: Jaye Baillie. Thereupon,

4 JAYE BAILLIE,

5 being by the Chairman first duly sworn, testified as  
6 follows:

7 MS. BAILLIE: Good morning. My name is Jaye  
8 Baillie. I'm the president of the Ocala Chamber of  
9 Commerce.

10 I live at 9443 Northeast 307th Court in Palm  
11 Beach (phonetic), Florida.

12 What I'm here today about is the Chamber of  
13 Commerce, our business community. The Chamber is  
14 located 110 East Silver Springs Boulevard, Ocala,  
15 Florida.

16 Chairman and Commissioners, thank you for  
17 allowing me to briefly address you this morning.  
18 Welcome to Ocala.

19 I want to talk to you about Progress Energy's  
20 commitment to this community during our most  
21 interesting hurricane season in 2004.

22 From a communication standpoint, their  
23 frequent, often, and accurate e-mails to me, phone  
24 calls, in fact, this allowed us to keep our 1700  
25 (phonetic) members of this community informed as to

1 when power will be restored.

2 It's very important for this information to get  
3 to them. It was really the only utility that kept  
4 me fully informed. All I had to do was receive an  
5 e-mail and send it out and folks had the  
6 information.

7 Also, from a communications standpoint,  
8 Progress Energy was represented at a special  
9 operations center for all the briefing. They were  
10 there to inform the community of the work that they  
11 were doing, and that was very important to getting  
12 our community back on the road to recovery.

13 And, finally, from a community standpoint, as  
14 the community leader, having Progress Energy taking  
15 an interest in our economy, our quality of life, our  
16 safety, makes my job easier.

17 Any issues that come to the forefront in any  
18 arena, we are allowed to approach Progress Energy  
19 and they are very frequently there to say they're  
20 with us.

21 So we appreciate their leadership, we  
22 appreciate their involvement in our community, and  
23 we appreciate their wonderful work that they did  
24 during the hurricanes.

25 Thank you.

1 CHAIRMAN BAEZ: Thank you, Ms. Baillie.

2 Mr. Twomey, do you have any questions?

3 MR. TWOMEY: I'm fine.

4 CHAIRMAN BAEZ: Commissioners, do you have any  
5 questions of this witness?

6 (All said no).

7 COMMISSIONER BAEZ: Mr. Twomey, you have a  
8 question?

9 MR. TWOMEY: Yes, sir, Mr. Chairman. Thank  
10 you.

11 Ms. Baillie, just one question: If the utility  
12 shareholders sharing in the cost of recovery of  
13 their utility system requested by the public counsel  
14 and my clients were to make your Chamber members'  
15 surcharges lower, would you be in favor of that?

16 MS. BAILLEY: As a section of the --

17 MR. TWOMEY: Yes, the lesser surcharge, would  
18 you be in favor of that?

19 MS. BAILLIE: Yes, that would take -- we have a  
20 Board of Directors that oversees all issues and  
21 decisions for the Chamber of Commerce that would  
22 take their review and their input.

23 MR. TWOMEY: But did you start to say that you  
24 might be in favor of that?

25 MS. BAILLIE: Anything that reduces the cost of

1 doing business is certainly -- is looked upon as  
2 favorable.

3 MR. TWOMEY: Thank you.

4 MS. BAILLIE: Thank you.

5 CHAIRMAN BAEZ: If there's no other questions,  
6 thank you, Ms. Baillie.

7 Ms. Christensen, do you have anyone else?

8 MS. CHRISTENSEN: We have no additional  
9 speaker.

10 Mr. Chip Wildy?

11 CHAIRMAN BAEZ: Officer, let me swear you in.  
12 Thereupon,

13 OFFICER CHIP WILDY,  
14 being by the Chairman first duly sworn, testified as  
15 follows:

16 CHAIRMAN BAEZ: Go ahead, sir.

17 OFFICER WILDY: Good morning. I'm the  
18 Emergency Management Director for Marion County and  
19 I came to speak on behalf of Progress Energy.

20 And, of course, I keep telling them I gotta  
21 remember to say Progress and not Florida. That's  
22 probably going around around here.

23 I just want to tell you what a great job --  
24 Yes, sir?

25 CHAIRMAN BAEZ: Can you state your name and

1 address for the record?

2 OFFICER WILDY: Chip Wildy, P.O. Box  
3 1987 --

4 CHAIRMAN BAEZ: Thank you, sir.

5 OFFICER WILDY: -- Ocala, Florida, 34478.

6 Just want to tell you what a great job they  
7 did. Very cooperative. They provided the citizens  
8 of Marion County with a representative in the  
9 emergency operations center 24/7 during the  
10 activation hours for all three of the activations.

11 We had to activate for Charley. As you  
12 guys well know, we did not get hit with Charley and  
13 we got hit with Jeanne and Frances.

14 They were there not only helping out with  
15 Florida -- Progress Energy's, you know, problems,  
16 they were helping -- assisting -- we got great  
17 cooperation from three of the four power companies  
18 that serve Marion County. They were helping out,  
19 you know, answer the public's questions that were  
20 coming up with power needs in general.

21 A lot of times, when people are sitting  
22 there without power for several days, you know, if  
23 they don't have anybody to call and complain to,  
24 they called in to us. Their people were fielding  
25 questions from the public.

1           They were able to prioritize special  
2 situations like getting power back on to schools  
3 that were being used as shelters. I mean, they  
4 jumped on that immediately. Matter of fact, I  
5 think -- to be totally honest, I believe we had  
6 power for Flor -- for -- Progress Energy's customers  
7 through Marion County were on, I believe, most of it  
8 within five days of both events, which I think was  
9 phenomenal.

10           They also were able to work very well with  
11 us when we had special needs situations. We were  
12 trying to reopen the schools to move our special  
13 needs population out of the schools and into other  
14 areas, and even to try to get them back into their  
15 homes.

16           If we could get a special needs patient  
17 back into their homes, all we had to do is go and  
18 ask them -- if it was a Progress Energy customer, go  
19 and ask them, said, hey, can you -- here's the  
20 address, can you work on getting on -- I mean, their  
21 response was great.

22           And to be honest with you, not just during  
23 of the storms. I mean, we've got a real good  
24 working relationship with them anytime.

25           And I just wanted to speak some favorable

1 words for them.

2 CHAIRMAN BAEZ: Thank you, sir.

3 Commissioners, do you have any questions?

4 (All said no.)

5 CHAIRMAN BAEZ: No questions.

6 Mr. Twomey?

7 MR. TWOMEY: Yes, Mr. Chairman.

8 Captain Wildy, accepting all the well deserved  
9 kudos that you've just given to Florida Power  
10 Corporation -- I've been around him.

11 THE WITNESS: I've been a long time growing up  
12 here and growing up with the name and --

13 MR. TWOMEY: But accepting all the good things  
14 you said, in the nature of the question I just asked  
15 Ms. Baillie, if an office of public counsel and all  
16 the customer lawyer representatives in this case are  
17 successful in asking the Commission to require the  
18 company's shareholders to pay a portion of the cost  
19 of recovery, and if that, in turn, would make the  
20 surcharge you're gonna end up paying smaller, you  
21 and the other deputies and the employees in the  
22 Sheriff's Office, and so forth, you're not  
23 necessarily opposed to that, are you?

24 OFFICER WILDY: I don't think we're ever  
25 opposed to paying a lower surcharge on anything.

1           Power companies, just like the taxes and  
2 everything else, okay, you know, nobody likes  
3 raising taxes, nobody likes to have higher fees,  
4 nobody likes to pay more at the gas pumps, but it's  
5 just with an economy and costs have to be met, and  
6 that's the way it works.

7           MR. TWOMEY: Right. Thank you.

8           CHAIRMAN BAEZ: Thank you, sir.

9           Ms. Christensen?

10          MS. CHRISTENSEN: Mr. Commissioner, I have no  
11 one else signed up to speak.

12          CHAIRMAN BAEZ: All right.

13          And the Commissioners, if you will indulge me,  
14 what I would propose is to recess for 15 or 20  
15 minutes, and then if no other -- just to give a  
16 chance for other customers to show up if they are  
17 running late, and if not, we'll adjourn the hearing  
18 at that time.

19          So at this point, if there's no matters that we  
20 need to take up right away, we'll recess for 15  
21 minutes.

22          (Recess in the proceedings.)

23          CHAIRMAN BAEZ: Ms. Christensen, are there any  
24 other customers that wish to give testimony?

25          MS. CHRISTENSEN: We have an additional person,



1 Mr. Commissioner; Mr. Georg Borchers.

2 COMMISSION BAEZ: Okay. Mr. Borchers?

3 MR. BORCHERS: Yes. My name is Georg Borchers.

4 Oh, I have to swear?

5 CHAIRMAN BAEZ: Yes, you do, sir.

6 Raise your right hand.

7 Thereupon,

8 GEORG BORCHERS,

9 being by the Chairman first duly sworn, testified as  
10 follows:

11 MR. BORCHERS: My name is Georg Borchers.

12 I just got here a few minutes ago. I was unaware of  
13 this meeting. I'll probably go to the next meeting  
14 where I'll be a little more fully prepared.

15 But the two things I do want to mention is that  
16 I represent the Sugarmill Woods Civic Association.

17 We're a small community. We're in Citrus  
18 County, the southwest corner. There are  
19 approximately 8,000 residents. We really are kind  
20 of off in the middle of nowhere, nobody really  
21 bothers us.

22 When you come up the new Sun Coast Parkway, you  
23 get off the parkway and there we are, and then you  
24 go to nowheresville.

25 But we're kind of consumer oriented in the term

1 that we'd like not to be taken advantage of, and in  
2 that regard, we tend to sometimes, through counsel,  
3 protest things, whether it's like I'm doing now,  
4 open-ended, extemporaneously, or through some kind  
5 of legal briefs.

6 We're opposed -- at least the Civic Association  
7 is opposed, and we represent the 8,000 people,  
8 although not everybody who lives there is a member,  
9 but still, we have a substantial majority.

10 We're opposed to Progress Energy doing  
11 something along the lines of the double accounting  
12 where they're charging again for something that they  
13 do on a daily basis, like maintenance.

14 And the other thing is -- and there's  
15 precedent, I understand, and you people are far more  
16 knowledgeable than I am, but there's precedent that  
17 there could be a sharing of the hurricane or  
18 disaster relief.

19 It is my understanding, and I'm not sure I got  
20 the right number, 252 million is what Progress  
21 Energy is looking for, and I'm told that if there  
22 was some kind of sharing, a little reduction of the  
23 double accounting, that it would drop substantially.

24 So those basically are the two main things that  
25 I'm here to talk about.

1           But I thought I'd throw another thing in that I  
2 just thought about on my way up here, and that is --  
3 and you may not be able to answer that, but I would  
4 think that the Progress Energy pays state and  
5 federal income taxes.

6           Now, I don't know why FEMA is not -- they  
7 couldn't go to FEMA, but maybe that's something I'm  
8 missing, maybe there's a law against that, but since  
9 they're paying federal and state income taxes,  
10 perhaps there might be some legislative relief to be  
11 given to Progress Energy in the terms of whatever.

12           Now, I don't know what their tax bracket is.  
13 Mine is 15 percent. Theirs may be a little higher,  
14 may be a little lower.

15           But let's say, for the sake of arguing, that  
16 they're gonna get the 263 million dollars, they  
17 would have to pay taxes on that, so if they're in  
18 the 10 percent tax bracket, that's about 26 million  
19 dollars. Perhaps we could get the Legislative (sic)  
20 to look at that and say, okay, I'll tell you what,  
21 we'll reduce that amount and we'll just forgive you  
22 those tax brackets. So that would bring that down.  
23 But that's kind of a suggestion.

24           Essentially, that's all I have.

25           At your next meeting, hopefully, I'll be a

1 little better prepared. I think it's in Clearwater  
2 or someplace like that. Is that true or not true?

3 CHAIRMAN BAEZ: I think the meeting tonight is  
4 in Apopka.

5 MR. BORCHERS: Now, is there another one in --

6 CHAIRMAN BAEZ: There's one day after tomorrow,  
7 there's one in Clearwater.

8 MR. BORCHERS: Okay. I'll be a little better  
9 prepared. I apologize for not being as prepared,  
10 but I hope you got what my protest is.

11 Thank you very much.

12 CHAIRMAN BAEZ: Any questions for Mr. Borchers  
13 before he goes?

14 Mr. McGee?

15 Mr. Twomey, I guess this is one of your  
16 clients.

17 MR. TWOMEY: I wanna talk to him about it;  
18 right.

19 (Laughter.)

20 CHAIRMAN BAEZ: Are you going to ask him any  
21 questions?

22 MR. TWOMEY: No, sir, I'm not.

23 MR. BORCHERS: Whew.

24 MR. BAEZ: You're the luckiest man in the room,  
25 sir.

1 (Laughter.)

2 MR. BAEZ: Commissioners, do you have any  
3 questions.

4 (All said no.)

5 CHAIRMAN BAEZ: Mr. Borchers, thank you for  
6 coming.

7 MR. BORCHERS: Thank you for giving me the  
8 time.

9 CHAIRMAN BAEZ: We're happy that you came. So  
10 thanks again.

11 Ms. Christensen?

12 MS. CHRISTENSEN: We have no other persons that  
13 signed up to speak.

14 CHAIRMAN BAEZ: Very well.

15 Now, and I'm gonna say this for the parties. I  
16 know that there have been several suggestions and  
17 I'll go on record that -- and say this: We're going  
18 to adhere to the terms of the notices that have been  
19 published.

20 As a practice, we try to set reasonable windows  
21 to hold these service hearings and we have never  
22 been -- we have always been committed to staying  
23 until the last customer has spoken.

24 Now, that is a double edged sword because we  
25 also have to be mindful of the state resources that

1 get expended, and we do have -- you know, there are  
2 a lot of -- there's a lot of money being spent in  
3 this room right now just by people sitting around.  
4 And while I do appreciate the suggestions from some  
5 of you that we try to stay open, if you will, until  
6 2:00 o'clock, it's my decision that we not do that  
7 for reasons that I've already stated.

8 But the notices clearly say that everyone that  
9 wants to speak should be here early, and I see no  
10 reason not to adhere to those kinds of instructions.

11 That's what notices are for, people, so you  
12 read them.

13 I'm not saying it's necessarily fair, but, you  
14 know, we have other interests that we need to  
15 preserve as well and I don't think it's in the  
16 Commission's best interest to be sitting around till  
17 2:00 o'clock until other witnesses have shown up.

18 Having said that, if there is nothing, Counsel,  
19 there's nothing pending at this point before we  
20 adjourn?

21 MS. BRUBAKER: The staff has nothing further.

22 CHAIRMAN BAEZ: Nothing further.

23 Ms. Christensen, is there anything further?

24 MS. CHRISTENSEN: We have nothing at this  
25 point. I know you still have some outstanding

1 letters. I don't know if we need to address those.

2 CHAIRMAN BAEZ: Outstanding letters? I'm  
3 sorry.

4 MS. CHRISTENSEN: On top of the exhibit that  
5 was identified earlier.

6 CHAIRMAN BAEZ: Yes, I'm sorry. And your  
7 questions are in the nature of what?

8 MS. BRUBAKER: Mr. Chairman, I think my  
9 suggestion would be we have identified, believe it's  
10 the first exhibit before the service hearing.  
11 Perhaps we could make use of the time before the  
12 additional service hearing to allow the parties to  
13 examine the letters, for opposing counsel to review  
14 the letters to have a chance to make an evaluation  
15 whether to act that it be admitted into the record.

16 CHAIRMAN BAEZ: Very well.

17 MS. BRUBAKER: To afford the time for  
18 examination.

19 CHAIRMAN BAEZ: We'll use the time to sort all  
20 that out.

21 For the time being, at least, it has been  
22 marked as Defendant's Exhibit 1.

23 Mr. McGee, while I have it in my mind, we did  
24 discuss about the notice and I know -- I suppose you  
25 still don't have one available, but I will remind

1       you that we need to get that one marked as an  
2       exhibit as well before we go to the next hearing, or  
3       during this series of service hearings, we'll be  
4       able to do that.

5                If there is nothing further, we are adjourned.

6                Thank you all for coming.

7                (Thereupon, at 11:30 a.m. the service hearing  
8       was concluded.)

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C E R T I F I C A T E

STATE OF FLORIDA )

COUNTY OF MARION )

I, ELLEN S. SALENGER, Registered Professional Reporter, certify that I was authorized to and did stenographically report the foregoing proceedings and that the transcript is a true record.

Dated this 22nd day of March, 2005.

ELLEN S. SALENGER, CSR, JPRP  
Notary Public-State of Florida  
My Commission No. DD 040418  
Expires: October 30, 2005

