

ORIGINAL

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Sent: Friday, October 14, 2005 9:25 AM
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Attachments: 050007.prehearing statement.doc

Electronic Filing

a. Person responsible for this electronic filing:

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b. Docket No. 050007-EI

In re: Environmental cost recovery clause.

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

d. There are a total of 9 pages.

e. The document attached for electronic filing is the Prehearing Statement of the Office of Public Counsel.

(See attached file: 050007.prehearing statement.doc)

Thank you for your attention and cooperation to this request.

CMP _____

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FPSC-COMMISSION CLERK

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Environmental cost recovery clause.) DOCKET NO. 050007-EI
)
) FILED: October 14, 2005
_____)

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-05-0264-PCO-EI, issued March 10, 2005, submit this Prehearing Statement.

APPEARANCES:

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On behalf of the Citizens of the State of Florida.

A. WITNESSES:

None.

B. EXHIBITS:

None.

C. STATEMENT OF BASIC POSITION

OPC has no basic position at this time.

D. STATEMENT OF FACTUAL ISSUES AND POSITIONS

ISSUE 1: What are the final environmental cost recovery true-up amounts for the period ending December 31, 2004?

OPC: No position at this time.

ISSUE 2: What are the estimated environmental cost recovery true-up amounts for the period January 2005 through December 2005?

OPC: No position at this time.

ISSUE 3: What are the projected environmental cost recovery amounts for the period January 2006 through December 2006?

OPC: No position at this time.

ISSUE 4: What are the environmental cost recovery amounts, including true-up amounts for the period January 2006 through December 2006?

OPC: No position at this time.

ISSUE 5: What depreciation rates should be used to develop the depreciation expense included in the total environmental cost recovery amounts for the period January 2006 through December 2006?

OPC: No position at this time.

ISSUE 6: What are the appropriate jurisdictional separation factors for the projected period January 2006 through December 2006?

OPC: No position at this time.

ISSUE 7: What are the appropriate environmental cost recovery factors for the period January 2006 through December 2006, for each rate group?

OPC: No position at this time.

ISSUE 8: What should be the effective date of the environment cost recovery factors for billing purposes?

OPC: No position at this time.

COMPANY SPECIFIC ISSUES.

Florida Power & Light Co. (FPL)

ISSUE 9A: Should the Commission approve FPL's request for recovery of costs for a 10 year Hydrobiological Monitoring Program associated with FPL's makeup water withdrawals from the Little Manatee River for its Manatee Unit 3 generating unit?

OPC: No position at this time.

ISSUE 9B: How should FPL's environmental costs for the Little Manatee River Hydrobiological Monitoring Program be allocated to the rate classes?

OPC: No position at this time.

ISSUE 9C: Should the Commission approve FPL's request for recovery of study costs and costs to retrofit various power plants to comply with the Clean Air Interstate Rule?

OPC: No position at this time.

ISSUE 9D: How should FPL's environmental costs for compliance with the Clean Air Interstate Rule be allocated to the rate classes?

OPC: No position at this time.

ISSUE 9E: Should the Commission approve recovery of FPL's legal costs to challenge the Clean Air Interstate Rule?

OPC: No position at this time.

ISSUE 9F: How should FPL's legal costs to challenge the Clean Air Interstate Rule be allocated to the rate classes?

OPC: No position at this time.

ISSUE 9G: Should the Commission approve FPL's request for recovery of costs to model potential visibility degradation in any Class 1 Federal Area associated with air emissions from its electric generating units pursuant to the Regional Haze Rule?

OPC: No position at this time.

ISSUE 9H: How should FPL's environmental costs for modeling potential visibility degradation pursuant to the Regional Haze Rule be allocated to the rate classes?

OPC: No position at this time.

Progress Energy Florida, Inc.

ISSUE 10A: Should the Commission approve PEF's request for recovery of costs for certain Sea Turtle street lighting activities in Franklin County, Gulf County, and within the City of Mexico Beach?

OPC: No position at this time.

ISSUE 10B: How should the costs for PEF's Sea Turtle street lighting activities be allocated to the rate classes?

OPC: No position at this time.

ISSUE 10C: Should the Commission approve PEF's request for recovery of costs to assess groundwater arsenic levels and consultant costs for development of an arsenic remediation plan at Plants Anclote, Bartow, Hines, and Crystal River?

OPC: No position at this time.

ISSUE 10D: How should the costs for PEF's arsenic groundwater monitoring and studies be allocated to the rate classes?

OPC: No position at this time.

ISSUE 10E: Should the Commission approve PEF's request for recovery of costs for installing secondary containment for certain underground storage tanks and small diameter piping at the Bartow and Crystal River Power Plant sites?

OPC: No position at this time.

ISSUE 10F: How should the costs for PEF's secondary containment facilities at the Bartow and Crystal River Power Plant sites be allocated to the rate classes?

OPC: No position at this time.

ISSUE 10G: Should the Commission approve recovery of costs related to design, engineering, procurement of equipment and initial construction of SCR and FGD systems for PEF's Crystal River coal units and NOx reduction equipment for its Anclote unit?

OPC: No. The proposed activities are related to EPA's CAIR/CAMR. Just as the Commission correctly withheld approval of any specific technology when it considered PEF's petition in Docket No. 050316-EI, it should not approve this portion of PEF's request at this time. In addition to the fact that PEF is participating (through an association that includes PEF) in challenges to the CAIR rule, PEF has provided no evidence to support its assertion that FGD equipment, SCR units, and other NOx reduction systems would be the most cost-effective means of complying with the requirements of the CAIR rule. For instance, PEF has not provided any evidence of the comparative costs of burning different fuels or acquiring allowances in lieu of retrofitting the units with expensive emission reduction systems. Until the Commission has such information before it, the Commission is not in a position to approve the recovery of money spent by PEF that would commit PEF—perhaps irrevocably—to a particular technology or approach. In the absence of an affirmative showing by PEF, OPC has initiated discovery in this docket regarding PEF's presently unsupported claim that it must necessarily construct expensive FGD and SCR systems. When it voted to close Docket No. 050316-EI, the Commission emphasized that it would make whatever adjustments to the schedule in Docket No. 050007-EI that are needed to

enable parties and the Commission to assess PEF's assertions fully. The Commission should either defer a decision on PEF's request or establish a new docket within which to consider the related issues.

Gulf Power Company

ISSUE 11A: Should the Commission approve Gulf's request for recovery of costs for groundwater arsenic remediation activities at Plants Crist and Scholz?

OPC: No position at this time.

ISSUE 11B: How should the costs for GULF's arsenic groundwater remediation activities at Plants Crist and Scholz be allocated to the rate classes?

OPC: No position at this time.

ISSUE 11C: Should the Commission approve GULF's request for recovery of costs for water conservation measures at Plant Crist?

OPC: No position at this time.

ISSUE 11D: How should the costs for GULF's Plant Crist water conservation measures be allocated to the rate classes?

OPC: No position at this time.

ISSUE 11E: Should the Commission approve GULF's request for recovery of costs for replacement of the copper condenser tubes at Plant Crist with stainless steel condenser tubes?

OPC: No position at this time.

ISSUE 11F: How should the costs for GULF's Plant Crist condenser tube replacement be allocated to the rate classes?

OPC: No position at this time.

ISSUE 11G: Should the Commission make any ruling on inclusion of the Plant Crist flue gas desulfurization unit in the ECRC when Gulf has, intentionally, not petitioned for inclusion of the project in the ECRC, and there are no costs to be recovered in 2005 and 2006?

OPC: No. Since Gulf has not requested approval of this project in its petition, there is no issue presented for adjudication and the testimony on this project should be stricken.

ISSUE 11H: Should the Commission make any ruling on inclusion in the ECRC of the bag-house on the Plant Smith Unit 2 electric generation facility when Gulf has, intentionally, not petitioned for inclusion of the project in the ECRC, and there are no costs to be recovered in 2005 and 2006?

OPC: No. Since Gulf has not requested approval of this project in its petition, there is no issue presented for adjudication and the testimony on this project should be stricken.

ISSUE 11I: Should Gulf be permitted to include its proposed Scrubber Project in its 2006 projections for the ECR clause?

OPC: No, Gulf has not requested approval of its proposed Scrubber Project under the "New Environmental Activities/Projects" section of its petition, so the testimony regarding this project should be stricken and the costs, if any, associated with the Scrubber project should be removed from the 2006 ECRC cost projections.

ISSUE 11J: Should Gulf be permitted to include its proposed Plant Smith Baghouse Project in its 2006 projections for the ECR clause?

OPC: No, Gulf has not requested approval of its proposed Plant Smith Baghouse Project under the "New Environmental Activities/Projects" section of its petition, so the testimony regarding this projection should be stricken and the costs, if any, associated with the Plant Smith Baghouse Project should be removed from the ECRC cost projections.

E. **STATEMENT OF LEGAL ISSUES AND POSITIONS:** See issues above.

F. **STATEMENT OF POLICY ISSUES AND POSITIONS:** See issues above.

G. STIPULATED ISSUES: None.

H. PENDING MOTIONS: None.

I. 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 14th day of October, 2005.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by electronic mail and U.S. Mail on this 14th day of October, 2005, to the following:

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