

State of Florida



Public Service Commission

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TALLAHASSEE, FLORIDA 32399-0850

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COMMISSION
CLERK

-M-E-M-O-R-A-N-D-U-M-

DATE: August 17, 2006

TO: Director, Division of the Commission Clerk & Administrative Services (Bayó)

FROM: Division of Economic Regulation (Slemkewicz, Maurey, Draper, Kummer) ^{JS EJD}
Office of the General Counsel (Brubaker) ^{CRB} *ALM TJS*

RE: Docket No. 041272-EI – 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..

AGENDA: 08/29/06 – Proposed Agency Action – Interested Persons May Participate

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Deason

CRITICAL DATES: None.

SPECIAL INSTRUCTIONS: None

FILE NAME AND LOCATION: S:\PSC\ECR\WP\041272.RCM.DOC
ATTACHMENTS NOT AVAILABLE ONLINE

Case Background

On April 26, 2006, Progress Energy Florida, Inc. (PEF or Company), the Office of Public Counsel (OPC), the Florida Industrial Power Users Group (FIPUG), the Florida Retail Federation (FRF), the AARP, Sugarmill Woods Civic Association, and Buddy L. Hansen filed a Stipulation and Settlement Agreement (Stipulation) to resolve the issues related to the replenishment of PEF's depleted storm reserve fund without the need for litigation.

Staff and the parties met on June 30, 2006, to discuss PEF's June 8, 2006, responses to staff questions concerning the various provisions of the Stipulation. PEF also submitted additional information in a letter dated July 18, 2006. Further clarifications and modifications

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were submitted in a letter dated August 10, 2006. This recommendation addresses the merits of the Stipulation and the Stipulation clarifications contained in the June 8, 2006, July 18, 2006, and August 10, 2006, letters. The Stipulation is attached hereto as Attachment A. PEF's responses to staff's data request, dated June 8, 2006, is attached hereto as Attachment B. PEF's July 18, 2006, letter is attached hereto as Attachment C. PEF's August 10, 2006, letter is attached hereto as Attachment D.

The Commission has jurisdiction over this matter pursuant to Sections 366.04, 366.05 and 366.06, Florida Statutes.

Discussion of Issues

Issue 1: Should the Commission approve the implementation of the proposed Stipulation and Settlement Agreement?

Recommendation: The Commission should approve the implementation of the proposed Stipulation and Settlement Agreement with Paragraph 3 modified to include a streamlined formal interim request procedure, an interim surcharge cap, a defined interim surcharge period, and a Paragraph 3 termination date. (Slemkewicz, Maurey, Draper, Brubaker)

Staff Analysis: On April 26, 2006, the parties filed a Stipulation and Settlement Agreement (Stipulation) to resolve the issues pending between the parties in this proceeding without the need for litigation. The Stipulation is attached hereto as Attachment A.

The major highlights contained in the Stipulation, as originally filed, are as follows:

- PEF will extend the current storm cost recovery surcharge for 12 months (August 2007 through July 2008). For residential customers using 1,000 kWh, the current charge is \$3.61.
- PEF will continue the \$6.0 million annual accrual to the storm reserve.
- Interest will be calculated on the after-tax balance of the storm reserve using a 30-day Dealer Commercial Paper rate equivalent to PEF's actual rating as published by the Federal Reserve.
- No definite amount for the replenishment of the storm reserve is set.
- PEF would be authorized to establish, at its option in perpetuity, an automatic interim surcharge of up to 80 percent of the claimed storm damage costs, subject to refund.
- The recovery period for each interim surcharge is not defined.
- The unrecovered storm costs will be carried as a debit (negative) balance in the storm reserve.
- Interest will be calculated on the after-tax balance of the deficiency using a 30-day Dealer Commercial Paper rate equivalent to PEF's actual rating as published by the Federal Reserve.
- Parties retain the right to contest the collection of any costs or amounts requested by PEF in subsequent proceedings, however, parties may not protest the implementation of the interim surcharge at the time of implementation.

- PEF retains the right to petition the Commission for cost recovery of any future damages and to replenish any storm reserve account either through securitization, surcharge, base rate relief or other cost recovery mechanism.
- The provisions of the Stipulation are contingent upon the approval of the Stipulation in its entirety by the Commission.

Most of the provisions are self-explanatory, but several of the provisions merit comment. These are as follows:

Paragraph 1: This provision extends the current surcharge for all rate classes (\$3.61 per 1,000 kWh for a residential customer) for 12 months through the last billing cycle in July 2008. The current surcharge is scheduled to expire following the last billing cycle for July 2007. PEF estimates that the extension of the current surcharge will generate approximately \$130.5 million in additional revenues. The additional funds will be used to replenish the storm reserve. PEF will also continue its \$6.0 million annual accrual to the storm reserve. Assuming that there are no charges against the reserve, PEF has estimated that the storm reserve balance would be \$146.1 million by July 31, 2008. Extending the current surcharge through July 2008 would allow PEF to fully recover its 2005 storm costs and end the surcharge period with a positive reserve balance.

As proposed, the Stipulation does not include any true-up provision for matching the revenues collected against any incurred costs. The extension of the surcharge is not intended to recover any specific amount of storm costs. In addition, the Stipulation does not establish any target level for the replenishment of the storm reserve. Therefore, it is not necessary to true-up the revenues. However, any additional storm costs charged to the storm reserve are still subject to audit and review. Any resulting adjustments would be credited or debited to the reserve as appropriate.

Paragraph 3: This provision provides that in the event that future storm claims exhaust the reserve account, PEF, at its own option, would be able to collect, subject to refund, an interim surcharge for up to 80 percent of the claimed costs for storm-recovery activities. The interim surcharge would be implemented upon 30 days notice to PEF's customers. As originally filed, PEF did not propose any limitation on the duration or amount of the interim surcharge. In its July 18, 2006, letter, PEF committed to limiting the amount of any initial automatic surcharge to 5 percent on a typical 1000 kWh residential bill over a recovery period not to exceed 24 months. Based on the current 1000 kWh residential bill of \$109.56, the maximum interim surcharge would be \$5.48. The resulting total residential bill would be \$115.04. PEF also proposed that the provisions of Paragraph 3 would apply only until the next filed rate case. In its August 10, 2006, letter, PEF further agreed that the implementation would not be automatic. Instead, a petition would be filed seeking implementation of an interim surcharge of up to 100 percent of the claimed deficiency.

If the Commission approves the Stipulation as originally filed, PEF would file tariff sheets with the Commission that provide the form of the notice that would be mailed to customers if PEF implements the interim surcharge. By approving the form of the notice that

would be mailed to customers, the Commission would essentially allow PEF to initiate, at a future date, an interim surcharge of an unspecified amount upon 30 days notice to its customers without further Commission review or approval.

At the June 30, 2006 meeting with the parties, staff expressed its concerns regarding the implementation of the 80 percent interim surcharge, especially the automatic implementation of potentially numerous and concurrent surcharges as well as the perpetual nature of the approval being sought. As a result of this meeting, PEF made additional commitments concerning the 80 percent interim surcharge in its July 18, 2006, letter as previously mentioned above.

Section 366.04, Florida Statutes, provides that the Commission has the jurisdiction to regulate and supervise each public utility with respect to its rates and service. Section 366.05, Florida Statutes, provides that the Commission has the power to prescribe fair and reasonable rates and charges by public utilities. Section 366.06, Florida Statutes, provides that a public utility shall not charge any rate not on file with the Commission, and that all applications for changes in rates shall be made to the Commission in writing under its rules and regulations. Furthermore, the Commission shall have the authority to determine and fix fair, just, and reasonable rates that may be charged by any public utility for its service.

As originally filed, Paragraph 3 of the Stipulation essentially delegates to PEF the Commission's statutory authority for authorizing a change in rates. However, the modifications presented in the August 10th letter provide that (1) PEF will not automatically implement an interim surcharge, (2) PEF will petition the Commission for implementation of an interim surcharge, (3) PEF will be allowed to request at least 80 percent, but as much as 100 percent, of the claimed deficiency, (4) the intervenors agree and will not oppose PEF's recovery of at least 80 percent of the claimed deficiency but reserve all their rights to support or challenge the interim surcharge recovery of the remaining 20 percent of the claimed deficiency, (5) per discussions with Commission staff, they will make every attempt to present this matter before the Commission within 45 days after filing absent extenuating circumstances, and (6) PEF will notice customers following the Commission's decision at agenda and will implement the interim surcharge 30 days following such customer notice (with the first billing cycle).

These modifications are similar in nature to the interim procedure which was approved in Order No. PSC-06-0601-S-EI, issued July 10, 2006, in Docket No. 060154-EI, In re: Petition for issuance of storm recovery financing order pursuant to Section 366.8260, F.S., by Gulf Power Company. The modified procedure requested in this docket and approved in Docket No. 060154-EI are substantially similar to the interim relief which was established by Order No. PSC-05-0187-PCO-EI, issued February 17 2005, in Docket No. 041291-EI, In re: Petition for authority to recover prudently incurred storm restoration costs related to 2004 storm season that exceed storm reserve balance, by Florida Power & Light Company.

Staff believes that PEF's August 10th modification utilizes a more reasonable vehicle which offers PEF the expedited interim relief it seeks, without abdicating the Commission's rate-setting authority. Upon a timely interim surcharge request by PEF, staff would make every effort to expedite the Commission's consideration of a requested interim surcharge within 45 days, absent any extenuating circumstances.

CONCLUSION: In staff's opinion, all of the provisions of the Stipulation, except for Paragraph 3, as originally filed, are a reasonable resolution of the issues regarding the replenishment of PEF's storm reserve. Staff believes that Paragraph 3, concerning the automatic 80 percent interim surcharge, is unnecessary and would effectively deprive the Commission of its statutory authority to review and authorize any change in PEF's rates and charges.

However, the clarifications and modifications presented in PEF's July 18, 2006, and August 10, 2006, letters concerning the automatic interim surcharge in Paragraph 3 resolve staff's concerns regarding the operation and implementation of the interim surcharge. Therefore, staff recommends that the Commission approve the Stipulation with Paragraph 3 modified by the clarifications and modifications presented in PEF's June 8, 2006, July 18, 2006, and August 10, 2006, letters.

Docket No. 041272-EI
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Issue 2: If the Commission approves the extension of the Storm Cost Recovery Surcharge, should PEF file a revision to Tariff Sheet No. 6.106?

Recommendation: Yes. (Draper)

Staff Analysis: PEF's current Storm Cost Recovery Surcharge factors are shown on Tariff Sheet No. 6.105 (Billing Adjustments) and are described on Tariff Sheet No. 6.106. The current description on Tariff Sheet No. 6.106 shows the expiration date of the Surcharge in July 2007 and states that it recovers storm costs for 2004. If the Commission approves the Stipulation including the provision to extend the current surcharge until the last billing cycle in July 2008, PEF should file a revised Tariff Sheet No. 6.106 to show the new expiration date and restate the purpose of the Surcharge. Tariff Sheet No. 6.105 does not need to be revised because the current factors will remain in effect through 2008 under the Stipulation.

Docket No. 041272-EI
Date: August 17, 2006

Issue 3: Should this docket be closed?

Recommendation: No. This docket should remain open to address the true-up of the actual storm restoration costs previously approved for recovery in this docket by Order No. PSC-05-0748-FOF-EI. That order also authorized that this docket be closed administratively once the staff has verified that the true-up is complete. (Brubaker)

Staff Analysis: This docket should remain open to address the true-up of the actual storm restoration costs previously approved for recovery in this docket by Order No. PSC-05-0748-FOF-EI. That order also authorized that this docket be closed administratively once the staff has verified that the true-up is complete.

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for approval of
storm reserve stipulation and
settlement by Progress Energy
Florida, Inc.

Docket No. 041272-EI

Submitted for filing:
April 26, 2006

**JOINT PETITION FOR APPROVAL OF
STIPULATION AND SETTLEMENT**

Progress Energy Florida, Inc. ("PEF" or the "Company"), the Office of Public Counsel, Florida Industrial Power Users Group, the AARP, Sugarmill Woods Civic Association, Inc., Buddy L. Hansen, and the Florida Retail Federation (collectively, the "Parties") hereby jointly move the Commission to approve the Stipulation and Settlement Agreement, dated April 20, 2006, and attached hereto, which the Parties have entered into for the purpose of resolving issues related to the replenishment of PEF's depleted storm reserve fund. In support of this petition, the Parties hereby agree to the following:

1. The Parties have been engaged in negotiations for the purpose of reaching a comprehensive stipulation in settlement of the replenishment of PEF's depleted storm reserve fund and thereby avoiding the need for expensive, time consuming litigation of these issues in hearings before the Commission. These negotiations have culminated in the execution of the attached Stipulation and Settlement Agreement (Attachment A).

2. The Stipulation and Settlement Agreement provides for an extension of PEF's storm cost recovery surcharge currently being collected on all customers' bills.

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through the last billing cycle in July 2008, in addition to the current \$6 million annual accrual to the reserve from base rates.

3. PEF shall calculate interest on the storm reserve by applying the 30-day commercial paper rate on the average after-tax balance of the storm reserve as more fully described in paragraph 2 of the Stipulation and Settlement Agreement.

4. The Stipulation and Settlement Agreement includes that if future storms exhaust the reserve account, PEF shall be able to collect upon thirty days notice to customers and subject to refund, an interim surcharge for 80% of the claimed deficiency. PEF may also petition the Commission to similarly recover the remaining 20% also subject to refund.

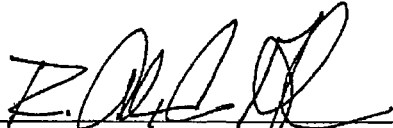
5. PEF shall calculate and collect interest on the claim by applying the 30-day commercial paper rate on the average unrecovered balance of the storm reserve as more fully described in paragraph 4 of the Stipulation and Settlement Agreement.

WHEREFORE, the Parties represent that the Stipulation and Settlement Agreement fairly and reasonably balances the various positions of the parties and serves the best interests of the customers they represent and the public interest in general. The Stipulation and Settlement Agreement is fully consistent with and supportive of this Commission's long standing policy of encouraging the settlement of contested proceedings in a manner that benefits the ratepayers of utilities subject to the Commission's regulatory jurisdiction and that avoids the need for costly, time consuming and inefficient litigation of matters before the Commission. For these reasons, the Parties request that the Commission approve the Stipulation and Settlement Agreement attached to this petition.

WHEREFORE, the Parties respectfully request that the Commission undertake its review of the Stipulation and Settlement Agreement and act upon this petition for its approval at the earliest practicable date in order to allow for the orderly implementation of the Agreement and to provide certainty to the parties and their respective constituents and customers with respect to the outcome of this proceeding.

Respectfully Submitted,

Progress Energy Florida, Inc.

By 
R. Alexander Glenn, Esquire
Deputy General Counsel – Florida
100 Central Avenue
St. Petersburg, Florida 33701
Telephone: (727) 820-5587
Facsimile: (727) 820-5519

Office of Public Counsel

By _____
Harold McLean, Esquire
111 W. Madison Street, Room 812
Tallahassee, Florida 32399

WHEREFORE, the Parties respectfully request that the Commission undertake its review of the Stipulation and Settlement Agreement and act upon this petition for its approval at the earliest practicable date in order to allow for the orderly implementation of the Agreement and to provide certainty to the parties and their respective constituents and customers with respect to the outcome of this proceeding.

Respectfully Submitted,

Progress Energy Florida, Inc.

By _____


R. Alexander Glenn, Esquire
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100 Central Avenue
St. Petersburg, Florida 33701
Telephone: (727) 820-5587
Facsimile: (727) 820-5519

Office of Public Counsel

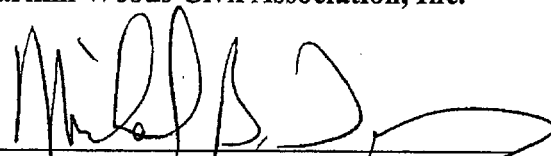
By _____

Harold McLean, Esquire
111 W. Madison Street, Room 812
Tallahassee, Florida 32399


AARP

By 
Michael B. Twomey, Esquire
8903 Crawfordville Road
Tallahassee, Florida 32305

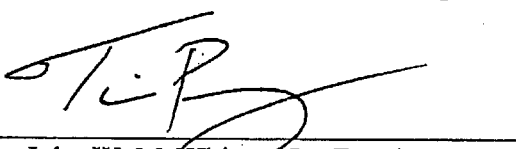
Sugarmill Woods Civil Association, Inc.

By 
Michael B. Twomey, Esquire
8903 Crawfordville Road
Tallahassee, Florida 32305

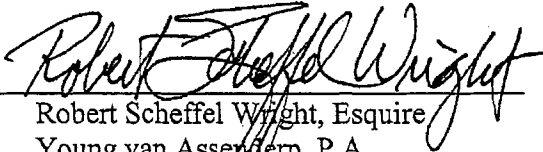
Buddy L. Hansen

By 
Michael B. Twomey, Esquire
8903 Crawfordville Road
Tallahassee, Florida 32305

Florida Industrial Power Users Group

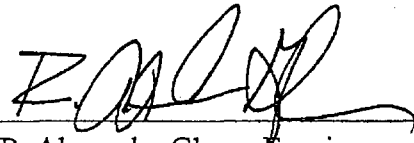
By 
John W. McWhirter, Jr., Esquire
McWhirter, Reeves
Post Office Box 3350
Tampa, Florida 33601

Florida Retail Federation

By 
Robert Scheffel Wright, Esquire
Young van Assenderp, P.A.
225 South Adams Street, Suite 200
Tallahassee, Florida 32301

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true copy of the foregoing petition has been furnished to Jennifer Brubaker, Esquire, Office of the General Counsel, Economic Regulation Section, Florida Public Service Commission, 2540 Shumard Oak Blvd., Tallahassee, Florida 32399-0850, by hand delivery this 26th day of April, 2006.



R. Alexander Glenn, Esquire

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for approval of storm
reserve stipulation and settlement
by Progress Energy Florida, Inc.

Docket No. 041272-EI

STIPULATION AND SETTLEMENT AGREEMENT

WHEREAS, as a result of the 2004 and 2005 hurricane seasons, Progress Energy Florida, Inc. ("PEF" or the "Company") has depleted its storm reserve account; and

WHEREAS, pursuant to PSC Order No. PSC-05-0748-FOF-EI in Docket No. 041272-EI, the Florida Public Service Commission (the "Commission") authorized PEF to recover approximately \$250 million in 2004 storm costs through a surcharge on customers' bills commencing in August 2005 and concluding in August 2007; and

WHEREAS, on April 29, 2005 the Company initiated a rate proceeding before the Commission in Docket No. 050078-EI; and

WHEREAS, the Company, the Office of Public Counsel ("OPC"), the Florida Industrial Power Users Group ("FIPUG"), the Florida Retail Federation ("FRF"), the AARP, Sugarmill Woods Civic Association, Inc. ("Sugarmill"), Buddy L. Hansen ("Hansen"), (hereafter collectively referred to as the "Parties") and other parties entered into a Stipulation and Settlement Agreement (the "2005 Rate Stipulation") for the purpose of reaching an informal resolution of all outstanding issues in Docket No. 050078-EI, which the Commission approved in Order No. PSC-05-0945-S-EI;

WHEREAS, the 2005 Rate Stipulation allows PEF to petition the Commission for approval to, among other things, increase its base rates or to impose a separate charge to collect and accrue reserves for storms and to replenish PEF's reserves for such storms; and

WHEREAS, the Parties to this Stipulation and Settlement Agreement (the "Agreement") have undertaken to resolve the appropriate amount of any storm reserve account without the need for litigation, and which will maintain a degree of stability in PEF's base rates and charges;

NOW, THEREFORE, in consideration of the foregoing and the covenants contained herein, the Parties hereby agree and stipulate as follows:

1. PEF will extend the storm cost recovery surcharge currently being collected on all customers' bills through the last billing cycle in July 2008, in addition to the current \$6 million annual accrual to the reserve from base rates.

2. The parties agree that PEF shall calculate interest on the storm reserve by applying the 30-day commercial paper rate on the average after-tax balance of the storm reserve in the following manner: Using a 30-day Dealer Commercial Paper rate equivalent to PEF's actual rating (e.g. A2/P2) at the time of the calculation, as published by the Federal Reserve at (<http://www.federalreserve.gov/releases/cp/>). The Parties agree that their agreement regarding this interest treatment on the storm reserve shall only be in effect until such time as new permanent base rates are set by the Commission, and that the Parties are free to advocate any position regarding interest treatment on PEF's storm reserve in any future base rate proceeding.

3. The Parties agree that if a future storm claim exhausts the reserve account, PEF shall be able to collect, subject to refund, an interim surcharge for 80% of the claimed deficiency, upon 30 days notice to PEF's customers and on the first billing cycle following the thirtieth day after customer notification is given, while the total claim is being formally evaluated by the Commission in a full hearing, if any such hearing is requested.

4. PEF shall calculate and collect interest on the claim by applying the 30-day commercial paper rate on the average unrecovered balance of the storm reserve in the following manner: Using a 30-day Dealer Commercial Paper rate equivalent to PEF's actual rating (e.g. A2/P2) at the time of the calculation, as published by the Federal Reserve at (<http://www.federalreserve.gov/releases/cp/>).

5. PEF retains all rights to petition the Commission for cost recovery of any future storm damages and to replenish any storm reserve account either through securitization, surcharge, base rate relief or other cost recovery mechanism and nothing in the settlement shall be construed to limit such rights or any other rights as set forth in the 2005 Rate Stipulation or in any way modify the terms of the 2005 Rate Stipulation. Except as otherwise provided in Section 3 above, the other parties to this Agreement retain all rights to contest the collection of any amounts by PEF.

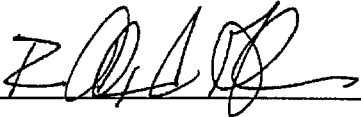
6. The provisions of this Agreement are contingent on approval of this Agreement in its entirety by the Commission. The Parties further agree that they will support this Agreement and will not request or support any order, relief, outcome, or result in conflict with the terms of this Agreement in any administrative or judicial

proceeding relating to, reviewing, or challenging the establishment, approval, adoption, or implementation of this Agreement or the subject matter hereof.

7. This Agreement dated as of April 26, 2006 may be executed in counterpart originals, and a facsimile of an original signature shall be deemed an original.

In Witness Whereof, the Parties evidence their acceptance and agreement with the provisions of this Agreement by their signatures below.

Progress Energy Florida, Inc.

By  _____

Alex Glenn, Esquire
Post Office Box 14042
St. Petersburg, Florida 33733

Office of Public Counsel

By _____

Harold McLean, Esquire
111 W. Madison St., Room 812
Tallahassee, Florida 32399

proceeding relating to, reviewing, or challenging the establishment, approval, adoption, or implementation of this Agreement or the subject matter hereof.

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In Witness Whereof, the Parties evidence their acceptance and agreement with the provisions of this Agreement by their signatures below.

Progress Energy Florida, Inc.

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Alex Glenn, Esquire
Post Office Box 14042
St. Petersburg, Florida 33733

Office of Public Counsel

By _____

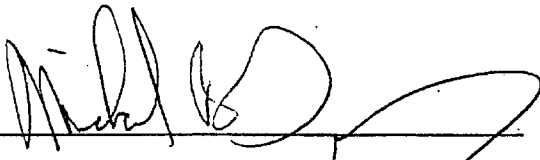
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Tallahassee, Florida 32399

AARP

By 

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Sugarmill Woods Civic Association, Inc.

By 

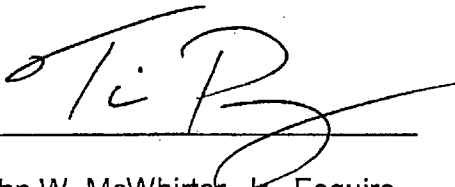
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Buddy L. Hansen

By 

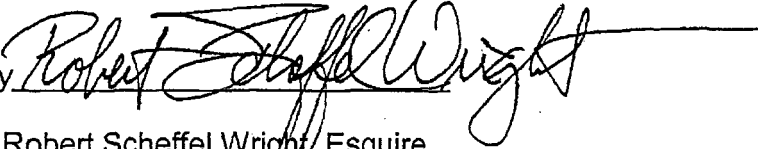
Michael B. Twomey
8903 Crawfordville Road
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Florida Industrial Power Users Group

By 

John W. McWhirter, Jr., Esquire
McWhirter, Reeves
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Tampa, Florida 33601

Florida Retail Federation

By 

Robert Scheffel Wright, Esquire
Young van Assenderp, P.A.
225 South Adams Street, Suite 200
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(Writer's Direct Dial No. 727-820-5587)

R. ALEXANDER GLENN
Deputy General Counsel - Florida

By Hand Delivery and Electronic Mail

June 8, 2006

Jennifer Brubaker, Esq.
Senior Attorney
Florida Public Service Commission
Capitol Circle Office Center
2450 Shumard Oak Blvd
Tallahassee, FL 32399-0850

Re: Docket No. 041272-EI - 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.

Dear Ms. Brubaker:

This letter provides Progress Energy Florida's ("PEF") responses to the questions set forth in your May 19, 2006 letter to me. Questions 8-14, 18 and 19 either request clarification of the terms of the April 26, 2006 Stipulation and Settlement Agreement (the "Stipulation") or address the intent of the parties as to the terms of the Stipulation. The other signatories to the Stipulation have reviewed the below responses to those questions and support them.

- CMP _____
- COM _____
- CTR _____
- ECR _____
- GCL _____
- OPC _____
- RCA _____
- SCR _____
- SGA _____
- SEC 1
- OTH _____

1. Please provide the total amount of any storm-related damages incurred during the 2005 storm season by storm (please see for example Exhibit MVW-1, attached to the Direct Testimony of Mark V. Wimberly, filed November 24, 2004, in Docket No. 041272-EI).

Response: Please see attached summary.



REsponse to
Q1_Storm Summary_

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Jennifer Brubaker, Esq.
June 8, 2006
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2. Please provide the amount of any 2005 storm-related damages that were charged to the storm damage reserve.

Response: No storm-related damages have been charged to the reserve as of yet; however, the retail O&M portion (\$6.6 million) of the 2005 storm expenditures will be charged to the storm reserve by June 2006. Please see response to Question 1 above.

3. Please provide a schedule reconciling any differences between the total amount of any 2005 storm-related damages incurred and the amount that was charged to the storm damage reserve. This schedule should show adjustments such as insurance reimbursements, amounts capitalized, etc.

Response: Please see attached summary and response to Question 2 above.



Response to
Q3_Storm Summary_

4. Based on the one-year extension of the current storm cost recovery surcharge, please provide a calculation of the additional amount of revenues that will be collected through the surcharge from August 2007 through July 2008 (please see for example Exhibit JP-2, attached to the Direct Testimony of Javier Portuondo, filed November 24, 2004, in Docket No. 041272-EI).

Response: Although the request was to provide the projected balance in the same format as Exhibit JP-2, we had previously prepared a document containing all of the same data points; however, it is presented differently. This schedule is attached for your review. If, upon your review, the document does not meet your needs and you would still like it in the JP-2 format, please let us know and we will direct our attention to its preparation.



Response to
Q4_Surcharge Reven

5. Please provide an updated version, as of March 31, 2006, of Exhibit JP-1, that was attached to the Direct Testimony of Javier Portuondo, filed November 24, 2004, in Docket No. 041272-EI.

Response: Please see attached summary.

Jennifer Brubaker, Esq.
June 8, 2006
Page 3



Response to Q5_
Exhibit JP-1_jpchange

6. If any storm-related damages were incurred during 2005 and charged to the storm damage reserve, please explain whether PEF followed the methodology that was approved in Order No. PSC-05-0748-FOF-EI? If not, please explain which methodology was used and why, and what the differences between the two methodologies were.

Response: PEF followed the recovery methodology approved in Order No. PSC-05-0748-FOF-EI.

7. Please explain whether the replenishment of the storm damage reserve is on a funded or unfunded basis?

Response: The replenishment of PEF's storm reserve is on an unfunded basis consistent with how PEF has historically administered its reserve.

8. Please explain whether it is the intent of the parties that the Commission's approval of the Stipulation would authorize PEF to automatically implement the 80% interim surcharge without any further action, review or approval from the Commission?

Response: It is the intent of the parties that the Commission's approval of the Stipulation would authorize PEF to automatically implement the 80% interim surcharge, upon 30 days notice to the customers and subject to refund, without any further action by the Commission. However, PEF would, in parallel, file a notice and revised tariff sheets with the Commission and would ultimately file a petition with the Commission for recovery of all prudently incurred storm recovery costs and for replenishment of any storm reserve depletion. The recovery mechanism could be either through a surcharge, securitization or base rate relief. In addition, it is the intent that PEF would be able to seek approval from the Commission to collect 100% of any storm costs in any such filing, as well as immediate collection of the remaining 20% of storm costs, also subject to refund. The other parties to the Stipulation would not be prohibited from challenging recovery of the remaining 20% on an interim basis, nor would they be prohibited from challenging any part or aspect of PEF's requested storm cost recovery on a permanent basis

9. If the implementation of the 80% surcharge is not automatic, please explain whether it is the intent of the parties that PEF would have to file a formal petition and revised tariffs with the Commission before it could implement the 80% interim surcharge contemplated in Provision 3 of the Stipulation?

Response: Please see response to Question 8 above.

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June 8, 2006
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10. If the implementation of the 80% surcharge is not automatic, please explain whether it is the intent of the parties that PEF must seek Commission approval before it can issue the 30 days notice to its customers that is contemplated in Provision 3 of the Stipulation?

Response: Please see response to Question 8 above.

11. Please explain whether it is the intent of the parties that PEF can seek up to 100% recovery of its storm restoration costs, i.e., the additional 20% not included in the 80% interim surcharge?

Response: Please see response to Question 8 above.

12. If PEF can seek 100% recovery of its storm restoration costs, please explain how the interim surcharge would ultimately be affected; i.e., would it be extended, increased, etc.?

Response: Please see response to Question 8 above. In addition, whether to increase or to extend any existing surcharge related to the additional 20% would be subject to determination by the Commission based on the facts and circumstances at the time of any storm reserve depletion.

13. There is no cumulative dollar threshold or time limitation in Provision 3 of the Stipulation regarding the implementation of the 80% interim surcharge. Please explain whether it is the parties' intent that PEF would not have to meet any cumulative dollar thresholds or time limitations before implementing the 80% interim surcharge?

Response: It is the parties' intent that PEF will not be required to meet any cumulative dollar thresholds or time limitation before implementing any interim surcharge.

14. Provision 2 of the Stipulation provides for the calculation of interest on the storm reserve. Please explain whether this means that PEF will calculate interest on the balance in Account 228.1, Accumulated Provision for Property Insurance, and increase Account 228.1 by that amount? If not, please provide an explanation of the interest provision.

Response: PEF will calculate interest on the after tax balance in Account no. 228.1 - Accumulated Provision for Property Insurance and will increase Account no. 228.1 by that amount.

15. If the extension of the surcharge is approved, please explain whether PEF intends to record its net 2005 storm costs as a regulatory asset in Account No. 182.1, Extraordinary Property Losses? If not, please explain PEF's proposed accounting treatment.

Response: No, PEF does not intend to record its net 2005 storm costs as a regulatory asset in Account no. 182.1 - Extraordinary Property Losses. PEF will record the 2005

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storm costs to the storm reserve account. PEF's accounting treatment will be to debit Account no. 228.1 - Accumulated Provision for Property Insurance and credit Account no. 186.1 - Job Orders for the net 2005 storm costs.

16. Assuming that there are no charges against the reserve during the August 2007 to July 2008 extension of the surcharge, please explain what the expected balance for the storm reserve at December 31, 2007, and July 31, 2008, would be? This should include the annual \$6 million accrual.

Response:

Beg. Balance - 01/01/06	\$ 5,566,000
Reserve Accrual - base	\$ 5,566,000
2005 Storm Expenses*	\$ 6,590,108
Ending Balance - 12/31/06	\$ 4,541,892

Beg. Balance - 01/01/07	\$ 4,541,892
Reserve Accrual - base	\$ 5,566,000
Surcharge Replenishment	\$ 56,817,975 (August 2007 - December 2007)
Interest - surcharge	\$ 464,584
Ending Balance - 12/31/07	\$ 67,390,451

Beg. Balance - 01/01/08	\$ 67,390,451
Reserve Accrual - base	\$ 3,246,833
Surcharge Replenishment	\$ 73,663,750 (January 2008 - July 2008)
Interest	\$ 1,761,399
Ending Balance - 07/31/08	\$146,062,433

* Note: Costs associated with Hurricanes Dennis, Katrina and Wilma will be booked June 1, 2006.

17. Provision 4 of the Stipulation provides for the calculation and collection of interest on the claimed costs for storm-recovery activities for future storms. Please explain in what account(s) this interest will be recorded?

Response: The calculation of interest expense will be recorded as a debit to Account no. 431 - Interest Expense and a credit to Account no. 228.1 - Accumulated Provision for Property Insurance.

18. Please explain when the calculation of interest in Provision 4 of the Stipulation commences?

Response: If the storm costs of a future claim exceed the balance of the storm reserve, resulting in a debit balance to account no. 228.1, PEF will begin calculating interest on the debit balance after the storm costs are recorded to the account.

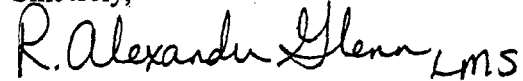
Jennifer Brubaker, Esq.
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19. Please explain whether the interest in Provision 4 of the Stipulation is calculated on the after-tax balance of the claimed costs for storm-recovery activities?

Response: Yes, the interest is calculated on the after-tax balance of the claimed costs for storm-recovery activities.

The Commission is currently scheduled to vote on the Stipulation at its August 29, 2006 Agenda. In order to provide PEF more certainty during the 2006 hurricane season, PEF requests that the Commission consider addressing the Stipulation at an earlier Agenda Conference. Please do not hesitate to contact me if you have any questions.

Sincerely,


R. Alexander Glenn

cc: Division of the Commission Clerk and Administrative Services
Office of Public Counsel (McLean)
Florida Retail Federation (Wright)
Florida Industrial Power Users Group (McWhirter)
AARP, Buddy L. Hansen, and Sugarmill Woods Civic Association, Inc.
(Twomey)



Major Storm Summary - Damages incurred for PEF in 2005
 Whole Dollars

2005 PEF System Storm Damages - Capital and O&M Split

Line No.	Total System Storm Cost		Capital	O&M	Retail O&M
1	<u>\$ 3,592,384</u>	Total Hurricane Dennis Estimate			
2		Capital / O&M Split - Book Basis: 24% / 76%	\$ 857,331	\$ 2,735,053	\$ 2,676,525
3					
4	<u>\$ 736,398</u>	Total Hurricane Katrina Estimate			
5		Capital / O&M Split - Book Basis: 0% / 100%	\$ -	\$ 736,398	\$ 719,984
6					
7	<u>\$ 3,321,179</u>	Total Hurricane Wilma Estimate			
8		Capital / O&M Split - Book Basis: 1% / 99%	\$ 50,000	\$ 3,271,179	\$ 3,193,598
9					
10	<u>\$ 7,649,961</u>	Total Storms	<u>\$ 907,331</u>	<u>\$ 6,742,630</u>	<u>\$ 6,590,108</u>

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Progress Energy Florida
04/30/06

SUMMARY

**Question 3 - Attachment
PEF Response to Storm Reserve
Settlement Data Request
Dkt# 041272-EI**

Docket No. 041272-EI
Date: August 17, 2006

Attachment B
Page 8 of 10

	STORM: DENNIS		STORM: KATRINA		STORM: WILMA		Jurisdictional Rate (1)	Retail O&M	Wholesale O&M
	O&M	Capital	O&M	Capital	O&M	Capital			
Total Storm Costs:									
Distribution	\$ 2,734,275	\$ 857,331	\$ 630,643	\$ -	\$ 3,062,958	\$ 50,000			
Transmission	188,612	-	8,734	-	220,601	-			
Customer Service Center	2,213	-	-	-	35,153	-			
Service Company	222,005	-	152,783	-	447,681	-			
Generation	-	-	-	-	881	-			
Total Storm Costs	\$ 3,147,105	\$ 857,331	\$ 792,160	\$ -	\$ 3,767,254	\$ 50,000			
Adjustments consistent with 2004 Order:									
Distribution Regular Payroll	\$ 226,133	\$ -	\$ 26,745	\$ -	\$ 222,785	\$ -			
Transmission Regular Payroll	26,247	-	-	-	56,344	-			
Service Company Regular Payroll	5,815	-	22,274	-	44,424	-			
Fleet Services Loader	153,857	-	6,743	-	172,522	-			
Total Adjustments	\$ 412,052	\$ -	\$ 55,762	\$ -	\$ 496,075	\$ -			
Net Storm Costs:									
Distribution	\$ 2,508,142	\$ 857,331	\$ 603,898	\$ -	\$ 2,840,173	\$ 50,000	99.781%	\$ 5,939,177	\$ 13,035
Transmission	162,365	-	8,734	-	164,257	-	71.263%	238,985	96,371
Customer Service Center	2,213	-	-	-	35,153	-	98.231%	36,704	661
Service Company	62,333	-	123,766	-	230,714	-	89.835%	374,445	42,369
Generation	-	-	-	-	880.50	-	90.454%	796	84
Total Net Storm Costs	\$ 2,735,052	\$ 857,331	\$ 736,398	\$ -	\$ 3,271,178	\$ 50,000		\$ 6,590,108	\$ 152,521
Subtotal		\$ 3,592,384		\$ 736,398		\$ 3,321,178			

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**Question 4 - Attachment
PEF Response to Storm Reserve
Settlement Data Request
Dkt# 041272-EI**

Docket No. 041272-EI
Date: August 17, 2006



**Storm Cost Recovery
Surcharge Recovery**

	Aug-07	Sep-07	Oct-07	Nov-07	Dec-07	Jan-08	Feb-08	Mar-08	Apr-08	May-08	Jun-08	Jul-08	Aug 07-Jul 08 12 Month Scenario
Beginning Storm Reserve	-	12,944,492	25,827,159	37,456,693	47,457,663	57,183,807	67,422,638	77,393,573	87,000,784	96,737,085	107,026,929	119,167,719	-
Amortization Expense	12,928,940	12,836,084	11,553,501	9,898,950	8,600,501	10,089,041	9,796,944	9,409,697	9,515,548	10,045,029	11,869,026	12,938,465	130,481,725
Interest @ 4.70%	15,552	46,583	78,033	102,021	125,723	149,710	173,991	197,513	220,754	244,815	271,764	302,259	1,928,718
Ending Unamortized Balance	12,944,492	25,827,159	37,456,693	47,457,663	57,183,807	67,422,638	77,393,573	87,000,784	96,737,085	107,026,929	119,167,719	132,408,442	132,408,442
% Allocated To Residential	62%	61%	59%	54%	55%	60%	60%	56%	54%	54%	58%	61%	58%
Residential Expense	8,016,354	7,876,354	6,825,800	5,336,960	5,314,657	6,009,496	5,855,513	5,306,974	5,110,674	5,411,435	6,926,825	7,923,576	75,913,617
Retail sales	4,091,437	4,062,052	3,656,171	3,132,579	3,038,133	3,192,735	3,100,299	2,977,752	3,011,249	3,178,807	3,756,021	4,084,451	41,291,885
Residential Sales	2,220,320	2,181,815	1,890,803	1,478,382	1,472,204	1,664,680	1,622,026	1,470,076	1,415,699	1,499,012	1,918,788	2,194,896	21,028,703
Retail Price Impact (\$/mwh)	3.16	3.16	3.16	3.16	3.16	3.16	3.16	3.16	3.16	3.16	3.16	3.16	3.16
Residential Price Impact (\$/mwh)	3.61	3.61	3.61	3.61	3.61	3.61	3.61	3.61	3.61	3.61	3.61	3.61	3.61

Assumptions:

- *Commercial paper rate of 4.70%
- *Interest applied on average monthly balance
- *Allocation based on expense percentage
- *Interest is calculated on an after-tax basis

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Attachment B
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PROGRESS ENERGY FLORIDA
SUMMARY OF STORM DAMAGE EXPERIENCE
 (Charges Against Storm Damage Reserve)
 For the Period of 1994 - March 31, 2006
 (Dollars in Thousands)

Year	FERC 228.13 Storm Damage Reserve Beg Balance	FERC 924.20 Expense Accrual & Fund Earns	Storm Damage Incurred	Storm Damage Reserve End Balance	Description
SYSTEM					
1994	346	6,000	1	6,345	
1995	6,345	5,323	4,367	7,301	Hurricane Erin - 8/95 / Hurricane Opal 10/95
1996	7,301	6,000	7	13,294	Expenses from Erin/Opal
1997	13,294	6,000	1,159	18,135	Hurricane Josephine - 10/96
1998	18,135	6,000	-	24,135	
1999	24,135	6,000	4,506	25,629	Hurricane Floyd-9/99/ Hurricane Harvey-9/99/ Hurricane Irene-10/99
2000	25,629	6,000	2,102	29,527	Hurricane Gordan - 9/00
2001	29,527	6,000	5,896	29,631	Hurricane Gabrielle - 9/01
2002	29,631	6,000	-	35,631	
2003	35,631	6,000	715	40,916	Hurricane Henri - 9/03
2004	40,916	6,000	-	46,916	
2005	46,916	5,566	46,916	5,566	Hurricanes Charley - 8/04/ Hurricane Frances - 8/04/ Hurricane Ivan - 9/04/ Hurricane Jeanne - 9/04 ¹
RETAIL					
2006	5,566	1,392	-	6,958	Balance as of March 31, 2006. Hurricane Wilma - 10/05/ Katrina - 8/05/ Dennis - 7/05 ²

Notes:

¹ Beginning with the ending balance in 2005, all figures will be shown on a retail basis.

² As noted above, Hurricanes Wilma, Katrina, and Dennis occurred in 2005; however, the retail storm costs associated with these storms (\$6.6M) will be applied in June 2006.



(Writer's Direct Dial No. 727-820-5587)

R. ALEXANDER GLENN
Deputy General Counsel - Florida

By Hand Delivery and Electronic Mail

July 18, 2006

Jennifer Brubaker, Esq.
Senior Attorney
Florida Public Service Commission
Capitol Circle Office Center
2450 Shumard Oak Blvd.
Tallahassee, FL 32399-0850

Re: Docket No. 041272-EI – Petition for approval of storm related cost recovery clause for recovery of extraordinary expenditures related to Hurricanes Charley, Frances, Jeanne, and Ivan, by Progress Energy Florida, Inc.

Dear Ms. Brubaker:

This letter is provided in response to your request for additional information regarding the Stipulation and Settlement Agreement (“Stipulation”) negotiated by the parties in this case. More specifically, this letter discusses the appropriateness of approving the Stipulation, including the provision authorizing a prospective interim storm surcharge to be implemented if Progress Energy Florida’s (“PEF”) storm reserve account is exhausted.

I. The Commission’s Approval of the Stipulation is Consistent With the Commission’s Policy of Encouraging Settlements

The Commission should approve the Stipulation, which was negotiated and approved by PEF, the Office of the Public Counsel, AARP, Sugarmill Woods Civil Association, Inc., Buddy L. Hansen, the Florida Industrial Power Users Group (“FIPUG”), and the Florida Retail Federation, because doing so is consistent with and supports the Commission’s long-standing policy of looking favorably upon and encouraging fair and reasonable settlements between parties. *See In re: Petition for rate increase by PEF, Docket No. 050078-EI, Order No. PSC-05-0945-S-EI (Sept. 28, 2005)* (“this Commission has a long history of encouraging settlements, giving great weight and deference to settlements, and enforcing them in the spirit in which they were reached by the parties.”); *In re: Petition for rate increase by Florida Power & Light Company (“FPL”), Docket No. 050045-EI, Order No. PSC-05-0902-S-EI (Sept. 14, 2005)*(same); *In re: Application for rate increase in Bay County by Bayside Utility Services,*

DOCUMENT NUMBER-DATE

06295 JUL 18 06

FPSC-COMMISSION CLERK

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Inc., Docket 030444-WS, Order No. PSC-05-0146-AS-WS (Feb. 7, 2005)(approving a settlement agreement, which had indicated that it was entered into by the parties "in order to avoid the time, expense and uncertainty associated with adversarial litigation, and in keeping with the Commission's long-standing policy and practice of encouraging parties in protested proceedings to settle issues whenever possible"). Further, as with any settlement approved by the Commission, nothing in the Stipulation "diminishes this Commission's ongoing authority and obligation to ensure fair, just, and reasonable rates." Order No. PSC-05-0902-S-EI.

II. Provision of Stipulation Authorizing Interim Storm Surcharge

You expressed some concerns regarding the basis upon which the Commission has the authority to approve the implementation of an interim surcharge, as outlined in Paragraph 3 of the Stipulation. The Commission does have the authority to approve the Stipulation negotiated and accepted by PEF, the Office of the Public Counsel, AARP, Sugarmill Woods Civil Association, Inc., Buddy L. Hansen, the Florida Industrial Power Users Group, and the Florida Retail Federation, including the proposed interim storm surcharge set forth in Paragraph 3. Approval of the Stipulation would not be an abdication of the Commission's authority to set rates in accordance with statutes and rules because the storm surcharge is nothing more than a prospective rate, which the Commission has the power to approve and which the Commission regularly does approve. Further, the process to be used in implementing the surcharge (tariff filing) is subject to the "file and suspend" process set forth by statute, which permits the increase of rates without Commission approval, subject to the Commission's authority to suspend the rates. Finally, the interim surcharge is subject to refund, with interest, upon a formal evaluation by the Commission in a full hearing.

The Commission has broad authority to set rates. The Commission has jurisdiction to regulate and supervise each public utility with respect to its rates and service, *see* Section 366.04(1), Florida Statutes, and has the power to prescribe fair and reasonable rates and charges to be applied to each public utility, *see* Section 366.05(1), Florida Statutes. The Commission has considerable discretion and latitude in the ratemaking process. *See Citizens v. Public Serv. Comm'n*, 425 So. 2d 534, 540 (Fla. 1982)("This Court has consistently recognized the broad legislative grant of authority which these statutes [Sections 366.06(2) and 366.05(1), Florida Statutes] confer and the considerable license the Commission enjoys as a result of this delegation."); *Gulf Power Co. v. Bevis*, 296 So. 2d 482, 487 (Fla. 1974)("As pointed out by the Commission, it has considerable discretion and latitude in the rate-fixing process."); *Storey v. Mayo*, 217 So. 2d 304, 307 (Fla. 1968)("The regulatory powers of the Commission . . . are exclusive and, therefore, necessarily broad and comprehensive."); *City of Miami v. Fla. Public Serv. Comm'n*, 208 So. 2d 249, 253 (Fla. 1968)("It is quite apparent that these statutes [Sections 364.14 and 366.06, Florida Statutes,] repose considerable discretion in the Commission in the rate-making process."). As part of its broad power to set rates, the Commission has authority to approve and regularly does approve prospective rate increases.

A. PEF's Interim Storm Recovery Surcharge is Nothing More Than a Prospective Rate Increase, Which the Commission Has the Authority to Approve

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July 19, 2006

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The Commission has the power to approve prospective increases and routinely does so. The Commission's authority to approve prospective rate increases has been expressly recognized by the Florida Supreme Court. In *Floridians United for Safe Energy, Inc. v. Public Service Commission*, the Commission had granted FPL a rate increase for 1984 and a subsequent rate increase in 1985. 475 So. 2d 241 (Fla. 1985). The Floridians United group challenged the Commission's authority to grant the subsequent year increase based on the then-newly created Section 366.076, Florida Statutes (addressing limited proceedings and rules on subsequent adjustments). *Id.* at 242. The Florida Supreme Court found that the Commission had authority and had always had authority (even prior to the enactment of Section 366.076) to grant subsequent year rate increases. *Id.* The Court also clarified that:

At the heart of this dispute is the authority of PSC to combat "regulatory lag" by granting prospective rate increases which enable the utilities to earn a fair and reasonable return on their investments. We long ago recognized that rates are fixed for the future and that it is appropriate for PSC to recognize factors which affect future rates and to grant prospective rate increases based on these factors.

Id. (citing *Citizens of Fla. v. Hawkins*, 356 So. 2d 254 (Fla. 1978); *Gulf Power Co. v. Bevis*, 289 So. 2d 401 (Fla. 1974); *City of Miami*, 208 So. 2d 249). Thus, the Court acknowledged the Commission's authority to approve prospective rate increases and affirmed the Commission's order which had established prospective increases for FPL. *Id.*¹

The Commission's authority to approve prospective increases has been regularly recognized and exercised by the Commission. See *In re: Application for a rate increase by Tampa Electric Company ("TECO")*, Docket No. 920324-EI, Order No. PSC-93-0165-FOF-EI (Feb. 2, 1993)(authorizing a revenue increase in 1993 and an additional increase to be effective January 1, 1994); *In re: Petition for a rate increase by Florida Power Corporation*, Docket No. 910890-EI, Order No. PSC-92-1197-FOF-EI (Oct. 22, 1992)(authorizing three prospective rate increases to take effect in November 1992, in April 1993 and in November 1993). See also *In re: Fuel and purchased power cost recovery clause with generating performance incentive factor*, Docket No. 050001-EI, Order No. PSC-05-1252-FOF-EI (Dec. 23, 2005)(the Commission explained that "we will sometimes approve step increases over a period of time to reduce rate shock to the extent we find the costs to be prudent and reasonable.").

Recently, the Commission approved prospective rate increases in PEF's and FPL's 2005 rate settlement cases. See Order No. PSC-05-0945-EI (approving an increase to base rates "to recover the full revenue requirements of the installed cost of Hines Unit 4 and the unit's non-fuel operating expenses," starting "on the commercial in-service date of Hines Unit 4"); Order No. PSC-05-0902-S-EI (approving an increase to base rates reflected on customer bills for "any

¹ Further, in *City of Miami*, the Florida Supreme Court, quoting from a policy statement made by the Commission, stated that in periods of instability, unusual activity or increasing costs, "conventional notions of rate making must be adjusted to the circumstances." 208 So. 2d at 253.

Date: August 17, 2006

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power plant that is approved through the Power Plant Siting Act and that achieves commercial operation within the term of the Stipulation and Settlement," beginning on "the commercial in-service date of the plant.").

Further, regarding storm recovery losses specifically, the Commission has indicated that it has the power to adopt a pass-through mechanism:

Our vote today does not foreclose or prevent further consideration of some type of a cost recovery mechanism, either identical or similar to what has been proposed in this petition. The Commission could implement a cost recovery mechanism, or defer costs, or begin amortization, or such other treatment as is appropriate, depending on what the circumstances are at that time.

In re: Petition to implement a self-insurance mechanism for storm damage to transmission and distribution system and to resume and increase annual contribution to storm and property insurance reserve fund by FPL, Docket No. 930405-EI, Order No. PSC-93-0918-FOF-EI (June 17, 1993). Just last year, in Docket No. 041291-EI, the Commission quoted this same paragraph, in determining that FPL could initiate a storm recovery surcharge based on a prior stipulation. *See In re:* Petition for authority to recover prudently incurred storm restoration costs related to 2004 storm season that exceed storm reserve balance, by FPL, Order No. PSC-0500187-PCO-EI (Feb. 17, 2005). In addition, the Commission recognized that it had established "pass-through mechanisms for certain costs" and that it was within the Commission's discretion to consider a surcharge as a means of cost recovery. *Id.*

Thus, the Commission's approval of the Stipulation would not be an abdication of its ratemaking authority because the Commission's approval of the Stipulation's interim storm recovery surcharge would be, in effect, the approval of a prospective increase. This instance is no different from the Commission's approval of the prospective rate increases for plant additions as part of the PEF and FPL rate case settlements. PEF's interim storm recovery surcharge, as originally described in Paragraph 3 of the Stipulation and Settlement Agreement, would operate as follows:

3. The Parties agree that if a future storm claim exhausts the reserve account, PEF shall be able to collect, subject to refund, an interim surcharge for 80% of the claimed deficiency, upon 30 days notice to PEF's customers and on the first billing cycle following the thirtieth day after customer notification is given, while the total claim is being formally evaluated by the Commission in a full hearing, if any such hearing is requested.

Like the prospective rate increases cited above, PEF's proposed surcharge would go into effect upon a specified event (future storm claim exhausts PEF's reserve account) at a specified time (first billing cycle following the 30th day after customer notification) and with specified conditions (reserve account exhausted, notification to customers, surcharge subject to refund, full hearing if requested).

To address any further concerns that the Commission Staff may have regarding the implementation of any initial automatic surcharge² and to underscore the surcharge's identity as a prospective rate increase, we would further commit that any initial automatic surcharge would be limited to 5% on a typical residential bill of 1,000 kwh and that the recovery period would not exceed 24 months. The impact to non-residential customers will be a default of having met the residential limitation. If any initial surcharge is not sufficient due to the size of the needed recovery, PEF would still be limited to a 5% increase over the period not to exceed 24 months until the Commission has issued a final order on a permanent surcharge and its order is implemented. Further, the provisions in paragraph 3 of the Stipulation will apply until PEF's next filed rate case. With these additional parameters as to the maximum initial automatic recovery amount and duration, the proposed settlement is clearly in line with the case law cited above regarding prospective rate increases, in which the parameters of the rate increase are known and approved. Accordingly, the Commission does have the authority to approve this prospective storm recovery rate increase.

B. The "File and Suspend" Process Would Permit Commission Suspension of the Proposed Surcharge

Additionally, the interim storm recovery surcharge is not an abdication of ratemaking authority as it would still be subject to the "file and suspend" process.

Section 366.06(4), Florida Statutes is the "file and suspend" provision of Chapter 366. *Citizens of the State of Fla. v. Mayo*, 333 So. 2d 1, 2 (Fla. 1976). The provision was "expressly designed to reduce so-called 'regulatory lag'" and "to provide a series of alternatives for the Commission" in approving a rate increase. *Id.* at 4. Under this statute, if the Commission does not act within the statutorily specified timeframe, then the proposed rates become effective without further Commission action. *See id.* ("If the Commission does not affirmatively act . . . to suspend the proposed new rate schedule filed . . . the new rates go into effect automatically . . ."). Such automatic increases, without additional Commission action, are appropriate and were intended by the Legislature. *See id.* at 5 ("The Legislature did not intend a full rate hearing before all new rate schedules become effective. Had it intended that result, there would have been no need to enact subsection 366.06(4) at all."). *See also Citizens of the State of Fla. v. Wilson*, 567 So. 2d 889, 891 (Fla. 1990) ("when a utility files a tariff changing its rates, the Commission may allow the tariff to go into effect on an interim basis without the necessity of a hearing.").

The application of the "file and suspend" law is not limited to full base rate proceedings. In Docket No. 041291-EI, the Office of the Public Counsel and FIPUG argued that the "file and

² The Commission expressed concern that the surcharge proposed by Gulf Power Company ("Gulf") was of an "unspecified amount," that it gave the Commission no opportunity to "set limits on the amount, duration or nature of the charges" and, as originally proposed, would "operate in perpetuity." *In re: Petition for issuance of storm recovery financing order pursuant to Section 366.8260, F.S. (2005)*, by Gulf, Docket No. 060154-EI, Order No. PSC-06-0601-S-EI (July 10, 2006). The commitments and clarifications by PEF eliminate these concerns.

suspend” process only applied to full base rate proceedings and, thus, could not be used by FPL for its storm recovery surcharge. Order No. PSC-05-0187-PCI-EI. The Commission disagreed, finding that the “file and suspend” procedure is “not limited to full base rate proceedings,” that the “plain language of Section 366.06 has always specified that it applies to ‘all applications for changes in rates,’” and that “for years” the “file and suspend” provision has been the “procedural basis for handling proposed tariffs outside of full base rate proceedings.” *Id.*

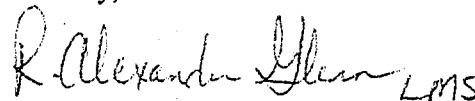
Thus, a tariff filing which would be subject to the “file and suspend” procedure is an appropriate process for the implementation of the interim surcharge provided for in the Stipulation. The Commission can suspend the interim charge pending formal evaluation by the Commission in a full hearing if it is concerned about PEF’s surcharge.

III. Conclusion

The Commission should approve the Stipulation in keeping with its long-standing policy to encourage settlements. The Commission has the authority to approve the Stipulation, including the interim storm surcharge. The surcharge is, in effect, nothing more than a prospective rate increase, which the Commission clearly has authority to approve and which it does regularly approve. Finally, the Stipulation itself and the “file and suspend” process provide appropriate safeguards regarding the Commission’s ability to suspend the charge or order refunds of the charge.

Please do not hesitate to contact me if you have any questions regarding this information.

Sincerely,

Handwritten signature of R. Alexander Glenn in cursive, with the initials "LMS" written at the end.

R. Alexander Glenn

cc: Division of Commission Clerk and Administrative Services
Office of Public Counsel (McLean)
Florida Retail Federation (Wright)
Florida Industrial Power Users Group (McWhirter)
AARP, Buddy L. Hansen, and Sugarmill Woods Civil Association, Inc. (Twomey)



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R. ALEXANDER GLENN
Deputy General Counsel - Florida

By Hand Delivery and Electronic Mail

August 10, 2006

Jennifer Brubaker, Esq.
Senior Attorney
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

Re: Docket No. 041272-EI – Petition for approval of storm related cost recovery clause for recovery of extraordinary expenditures related to Hurricanes Charley, Frances, Jeanne, and Ivan, by Progress Energy Florida, Inc.

Dear Ms. Brubaker,

The information provided within supplements my letter dated July 18, 2006 to further clarify the Agreement and Settlement in Docket No. 041272-EI.

Progress Energy Florida and the signatories to the Agreement and Settlement agree that paragraph 2 of the Agreement and Settlement will be interpreted and or modified as follow:

1. The Company will not automatically implement an interim surcharge,
2. The Company will petition the Commission for implementation of an interim surcharge,
3. The Company will be allowed to request at least 80% but as much as 100% of the claimed deficiency,
4. The intervenors agree and will not oppose the Company's recovery of at least 80% of the claimed deficiency but reserve all their rights to support or challenge the interim surcharge recovery of the remaining 20% of the claimed deficiency,
5. Per discussions with Commission Staff they will make every attempt to present this matter before the Commission within 45 days after filing absent extenuating circumstances and

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6. The Company will notice customers following the Commission's decision at agenda and will implement the interim surcharge 30 day's following such customer notice (with the first billing cycle).

Please do not hesitate to contact me if you have any questions regarding this information.

Sincerely,


R. Alexander Glenn *LMS*

cc: Division of Commission Clerk and Administrative Services
Office of Public Counsel (McLean)
Florida Retail Federation (Wright)
Florida Industrial Power Users Group (McWhirter)
AARP, Buddy L. Hansen, and Sugarmill Woods Civic Association, Inc. (Twomey)
Marshall Willis