

Matilda Sanders

From: ROBERTS.BRENDA [ROBERTS.BRENDA@leg.state.fl.us]
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To: Filings@psc.state.fl.us
Cc: Cochran Keating; Larry Harris; Lee Willis; R. Alexander Glenn; Susan D. Ritenour; Wade Litchfield
Subject: e-filing (Dkt. 060508-EI)
Attachments: 060508.OPC Comments__Proposed Nuclear Plant Cost Recovery Rule.sversion.doc

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Electronic Filing

a. Person responsible for this electronic filing:

Charles J. Beck, Deputy Public Counsel
Office of Public Counsel
c/o The Florida Legislature
111 West Madison Street, Room 812
Tallahassee, FL 32399-1400
(850) 488-9330
beck.charles@leg.state.fl.us

b. Docket No. 060508-EI

In re: Rule 25-6.0423, Nuclear Plant Cost Recovery

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

d. There are a total of 4 pages.

e. The document attached for electronic filing is Citizen's Comments.

(See attached file: 060508.OPC Comments__Proposed Nuclear Plant Cost Recovery Rule.sversion.doc)

Thank you for your attention and cooperation to this request.

Brenda S. Roberts
Secretary to Charles J. Beck, Deputy Public Counsel.
Office of Public Counsel
Telephone: (850) 488-9330
Fax: (850) 488-4491

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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Rule 25-6.0423,)
 Nuclear Plant Cost)
 Recovery)
 _____)

Docket 060508-EI
 Filed September 13, 2006

COMMENTS

The Citizens of Florida, through Harold McLean, Public Counsel, submit the following post-workshop comments.

OPC generally supports the rule drafted by PSC staff. However, we believe it is essential to add procedural protections to make sure all parties are provided an adequate opportunity to review the nuclear preconstruction costs and projected construction costs submitted by utilities for approval by the Commission. Under section 366.93, Fla. Stat., utilities are allowed to recover preconstruction costs and the carrying costs on projected construction costs through the capacity cost recovery clause.

Fuel costs, including capacity recovery costs, are generally reviewed in an expedited fashion. For example, on Friday, September 1, 2006 (at the beginning of the three day Labor Day holiday), the electric utilities provided their projection data and testimony in docket 060001-EI. Even if the parties had been able to serve discovery on the next work day (September 5, 2006), responses to that discovery would not have been due until the time for filing intervenor testimony

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had expired. A process such as this is not workable to review nuclear preconstruction costs and carrying costs on projected construction costs which could easily reach hundreds of millions of dollars.

We suggest adding procedural protections to the proposed nuclear power plant cost recovery rule which will require utilities to file their related testimony and supporting cost information at least 60 days prior to the due date of intervenor testimony in the docket concerning the capacity cost recovery clause. This should be accompanied by a requirement that utilities be required to respond to discovery requests within 20 days of service, as is currently required for discovery related to the projection testimony.

Specific Comments on the Draft Rule Provided by Progress Energy and Florida Power & Light Company

- section (1)(d): the definition of "preconstruction costs" should be limited to those costs incurred after a site has been selected, consistent with the provisions of section 366.93(1)(d), Fla. Stat.

- sections (2)(c) and (2)(d): "litigation costs" should not be included in the rule, but should instead be evaluated on a case by case basis. If the phrase "litigation costs" is included, it should be preceded by the phrase "reasonable and prudent" so that the company could not recover unreasonable or imprudently incurred litigation costs.

- section (6)(a): OPC concurs with the staff's proposal for a limited proceeding to adjust base rates, as opposed to the companies' proposal that the PSC "confirm" the utilities' calculations. Base rates can not and should not be adjusted in a fuel proceeding. If the companies' proposal were used, the word "approval" should be used instead of the word "confirmation."

- section (6)(c): base rates should be reduced at the end of the five year period, as proposed by staff.

Respectfully submitted,

HAROLD MCLEAN
PUBLIC COUNSEL

s/ Charles J. Beck
Charles J. Beck
Deputy Public Counsel
Fla. Bar No. 217281

Office of Public Counsel
c/o The Florida Legislature
111 W. Madison Street
Room 812
Tallahassee, FL 32399-1400

(850) 488-9330

Attorney for Florida's Citizens

DOCKET NO. 060508-EI

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing has been furnished by U.S. Mail or hand-delivery to the following parties on this 13th day of September, 2006.

s/ Charles J. Beck
Charles J. Beck

Lawrence Harris
Office of General Counsel
Florida Public Service Commission
2540 Shumard Oak Blvd.
Tallahassee, FL 32399-0850

Cochran Keating
Office of General Counsel
FL Public Service Commission
2540 Shumard Oak Blvd.
Tallahassee, FL 32399-0850

R. Alexander Glenn
Progress Energy Florida, Inc.
106 E. College Avenue, Suite 800
Tallahassee, FL 32301

Lee Willis
Ausley Law Firm
P.O. Box 391
Tallahassee, FL 32302

R. Wade Litchfield, Esquire
Florida Power & Light Company
700 Universe Blvd.
Juno Beach, FL 33408-0420

Susan D. Ritenour
Richard McMillan
Gulf Power Company
One Energy Place
Pensacola, FL 32520-0780