



WRITER'S DIRECT DIAL NO. (727) 820-5587

September 13, 2006

Ms. Blanca S. Bayó, Director  
Division of the Commission Clerk and  
Administrative Services  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, FL 32399-0850

*Re: Proposed adoption of new rule regarding nuclear power plant cost recovery;  
Docket No. 060508-EI*

Dear Ms. Bayó:

I am enclosing for filing on behalf of Progress Energy Florida, Inc. ("PEF") and Florida Power & Light Company ("FPL") (1) PEF's and FPL's joint post-workshop proposed rule comments in the above-referenced docket, (2) a statement of economic impact regarding the proposed rule, and (3) a redline of Staff's proposed rule reflecting PEF's and FPL's previous comments that we provided at the August 30, 2006 workshop. Please do not hesitate to call me should you have any questions.

Sincerely,

*R. Alexander Glenn* LMS  
R. Alexander Glenn

RAG/lms

cc: Larry Harris, Esq.  
Wade Litchfield, Esq.

1 **25-6.0423 Nuclear Power Plant Cost Recovery.**

2 (1) The purpose of this rule is to establish alternative cost recovery  
3 mechanisms for the recovery of costs incurred in the siting, design, licensing, and  
4 construction of nuclear power plants that promote electric utility investment in  
5 nuclear power plants and allow for the recovery in rates of all such prudently  
6 incurred costs.

7 (2) As used in this rule:

8 (a) "Nuclear power plant" or "plant" is an electrical power plant  
9 that utilizes nuclear materials as fuel, as defined in section  
10 403.503(13), Florida Statutes.

11 (b) "Cost" includes, but is not limited to all capital investments  
12 including rate of return, any applicable taxes and all expenses,  
13 including operation and maintenance expenses, related to or  
14 resulting from the siting, licensing, design, construction or  
15 operation of the nuclear power plant.

16 (c) "Preconstruction costs" are costs that are expended in  
17 preparation for the construction of a nuclear power plant, incurred  
18 up to and including the date the utility completes site clearing  
19 work. These costs include, but are not limited to, any and all costs  
20 associated with preparing, reviewing and defending a Combined  
21 Operating License (COL) application for a nuclear power plant,  
22 cost of engineering, designing and permitting the nuclear power  
23 plant, or any litigation costs related thereto, costs associated with  
24 site and technology selection, clearing, grading and excavation,  
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1 and cost of on-site construction facilities (i.e. construction offices,  
2 warehouses, etc.)

3 (d) "Construction costs" are costs that are expended to construct  
4 the nuclear power plant including any litigation costs related  
5 thereto. These costs include, but are not limited to, constructing  
6 nuclear power plant buildings and all associated permanent  
7 structures, equipment and systems.

8 (3) Preconstruction costs shall be afforded deferred accounting treatment  
9 and shall accrue a carrying charge equal to the utility's allowance for funds used  
10 during construction (AFUDC) until recovered in rates.

11 (4) After the Commission has issued a final order granting a determination  
12 of need pursuant to Section 403.519, Florida Statutes:

13 (a) A utility may petition the Commission for cost recovery as permitted  
14 under this rule;

15 (b) A utility is entitled to recover, through the Capacity Cost Recovery  
16 Clause, its actual and projected preconstruction costs and the related carrying  
17 charge. Such costs will be recovered, on an annual basis, based on the utility's  
18 projection. With its Capacity Cost Recovery projection filing a utility shall  
19 annually submit (i) its projected preconstruction expenditures for the subsequent  
20 year; and (ii) a description of the preconstruction work projected to be performed  
21 during such year. With its Capacity Cost Recovery final true-up filing a utility  
22 shall annually submit for Commission review and approval information  
23 concerning (iii) its actual preconstruction expenditures in the prior year in  
24 comparison with its previously filed projected preconstruction expenditures for  
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1 such prior year and (iv) a description of the preconstruction work actually  
2 performed during such year. The Commission shall after review enter in its order  
3 with respect to a utility's Capacity Cost Recovery Clause a finding with respect to  
4 the prudence of such preconstruction costs actually expended by the utility. In  
5 making its determination of prudence the Commission shall apply the standard  
6 provided for pursuant to Section 403.519(4)(e), Florida Statutes. Actual pre-  
7 construction costs incurred by a utility prior to the issuance of a final order  
8 granting a determination of need pursuant to Section 403.519, Florida Statutes,  
9 shall be included in the initial filing made by a utility under this section for  
10 review, approval and a finding with respect to prudence.

11 (c) A utility is entitled to recover, through the utility's Capacity Cost  
12 Recovery Clause, the carrying costs on the utility's annual projected construction  
13 cost balance associated with the nuclear power plant. The actual carrying costs  
14 recovered through the Capacity Cost Recovery Clause shall reduce the AFUDC  
15 that would otherwise have been recorded as a cost of construction eligible for  
16 future recovery as plant in service. For nuclear power plant need petitions  
17 submitted on or before December 31, 2010, the associated carrying costs shall be  
18 computed based on the pretax AFUDC rate in effect on June 19, 2006. For  
19 nuclear power plant need petitions submitted after December 31, 2010, the  
20 utility's pretax AFUDC rate in effect at the time the petition for determination of  
21 need is filed is presumed to be appropriate unless the Commission determines  
22 otherwise in its need determination Order. With its Capacity Cost Recovery  
23 projection filing a utility shall annually submit (i) its projected construction  
24 expenditures for the subsequent year; and (ii) a description of the construction  
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1 work projected to be performed during such year. With its Capacity Cost  
2 Recovery final true-up filing a utility shall annually submit for Commission  
3 review and approval information concerning (iii) its actual construction  
4 expenditures in the prior year in comparison with its previously filed projected  
5 construction expenditures for such prior year and (iv) a description of the  
6 construction work actually performed during such year. The Commission shall  
7 after review enter in its order with respect to a utility's Capacity Cost Recovery  
8 clause a finding with respect to the prudence of such construction costs actually  
9 expended by the utility. In making its determination of prudence the Commission  
10 shall apply the standard provided for pursuant to Section 403.519(4)(e), Florida  
11 Statutes.

12 (d) The difference between actual and projected costs as filed in the  
13 Capacity Cost Recovery Clause will be included for cost recovery purposes as a  
14 component of the over/under recovered balance to be included in the following  
15 year's cost recovery proceeding for the Capacity Cost Recovery Clause.

16 (5) In the event the utility elects not to complete or is precluded from  
17 completing construction of the nuclear power plant, the utility shall be allowed to  
18 recover all prudent preconstruction costs, and construction costs incurred  
19 following the commission's issuance of a final order granting a determination of  
20 need for the nuclear power plant. The utility shall recover such costs through the  
21 Capacity Cost Recovery Clause over a period equal to the period during which the  
22 costs were incurred or 5 years, whichever is greater. The amount recovered under  
23 this section will be the remaining unrecovered Construction Work In Progress  
24 balance at the time of abandonment and future payment of all outstanding costs.  
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1 The unrecovered balance during the recovery period will accrue interest at the  
2 utility's overall pretax weighted average midpoint cost of capital on a FPSC  
3 Adjusted basis as reported by the utility in its Earnings Surveillance Report filed  
4 in December of the prior year, utilizing the midpoint of Return On Equity (ROE)  
5 range or ROE approved for other regulatory purposes, as applicable.

6 (6) As operating units or systems associated with the nuclear power plant  
7 and the nuclear power plant itself, are placed in commercial service:

8 (a) The utility shall calculate and submit for Commission confirmation the  
9 increase in base rates resulting from the jurisdictional annual base revenue  
10 requirements for the nuclear power plant in conjunction with the Capacity Cost  
11 Recovery Clause projection filing for the year the nuclear power plant is projected  
12 to achieve commercial operation. The increase in base rates will be based on the  
13 annualized base revenue requirements for the nuclear power plant for the first 12  
14 months of operations consistent with the cost projections filed in conjunction with  
15 the Capacity Cost Recovery Clause projection filing. At such time as the nuclear  
16 power plant is included in base rates, recovery through the Capacity Cost  
17 Recovery Clause will cease, except for the difference between actual and  
18 projected construction costs as provided in paragraph (4)(d) above.

19 (b) The rate of return on capital investments shall be calculated using the  
20 utility's rate of return last approved by the Commission prior to the commercial  
21 in-service date of the nuclear power plant.

22 (c) The jurisdictional net book value of any existing generating plant that  
23 is retired as a result of operation of the nuclear power plant shall be recovered  
24 through an increase in base rate charges over a period not to exceed 5 years.

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CODING: Words underlined are additions; words in ~~struck-through~~ type  
are deletions from existing law.

1 (7) On an annual basis following the final determination of need Order  
2 and until commercial operation of the nuclear power plant, a utility shall include  
3 the budgeted and actual costs as compared to the estimated in-service costs of the  
4 nuclear power plant as provided in the petition for need determination in its  
5 annual report filed pursuant to Rule 25-6.135. The estimates provided in the  
6 petition for need determination are non-binding estimates. Some costs may be  
7 higher than estimated and other costs may be lower. A utility shall provide such  
8 revised estimated in-service costs as may be necessary in its annual report.

9 *Specific Authority 350.127(2), 366.05(1). Law Implemented 366.93 FS.*

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Humberto J. Gonzalez  
Regulatory Affairs Coordinator  
Florida Power & Light Company  
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Miami, FL 33174  
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September 13, 2006

Larry Harris,  
Office of the General Counsel  
Florida Public Service Comisión  
2540 Shumard Oak Blvd.  
Tallahassee, FL 32399-0862.

**Re: Docket No. 060508, Rule 25-6.0423 Statement of Estimated Regulatory Costs (SERC)**

Dear Mr. Harris:

Below please find the Statement of Estimated Regulatory Costs (SERC) to implement Rule 25-6.0423 Nuclear Power Plant Cost Recovery, as required under Docket No. 060508 and the workshop held by Staff on August 30, 2006. Section 120.541(2), FS, identifies the following required components of a SERC:

- a. A good faith estimate of the number of individuals and entities likely to be required to comply with the rule, together with a general description of the types of individuals likely to be affected by the rule.
  - Florida Power & Light Company (FPL) and Progress Energy Florida (PEF) have participated in the discussions for Docket No. 060508 and would be affected by the rule. Although we have not identified others both Gulf and TECO could potentially be impacted by the rule. It is not for us to say.
- b. A good faith estimate of the cost to the agency, and to any other state and local government entities, of implementing and enforcing the proposed rule, and any anticipated effect on state or local revenues.
  - No such cost has been identified at this time.
- c. A good faith estimate of the transactional costs likely to be incurred by individuals and entities, including local government entities, required to comply with the requirements of the rule. As used in this paragraph, "transactional costs" are direct costs that are readily ascertainable based upon standard business practices, and include filing fees, the cost of obtaining a license, the cost of equipment required to be installed or used or procedures required to be employed in complying with the rule, additional operating costs incurred, and the cost of monitoring and reporting.
  - Initial costs to implement the rule as proposed by FPL on the September 13 filing would be included in the organization's expenses resulting in no additional cash expenditures. This would include setting up the accounting systems for recording and reporting the items related to the proposed rule.
  - In regards to on-going costs, FPL estimates the costs would be approximately \$10,000 per year.
- d. An analysis of the impact on small businesses as defined by s. 288.703, and an analysis of the impact on small counties and small cities as defined by s. 120.52.
  - These costs are not applicable.

**Florida Power & Light Corporation**  
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- e. Any additional information that the agency determines may be useful.
  - No additional information has been identified at this time.
- f. In the statement or revised statement, whichever applies, a description of any good faith written proposal submitted under paragraph (1)(a) and either a statement adopting the alternative or a statement of the reasons for rejecting the alternative in favor of the proposed rule.
  - No additional information has been identified at this time.

Sincerely,

Humberto Gonzalez.

cc: Wade Litchfield, Florida Power and Light  
Alex Glenn, Progress Energy Florida

1 **25-6.0423 Nuclear Power Plant Cost Recovery.**

2 (1) The purpose of this rule is to establish alternative cost recovery  
3 mechanisms for the recovery of costs incurred in the siting, design, licensing, and  
4 construction of nuclear power plant, that promote electric utility investment in  
5 nuclear power plants and allow for the recovery in rates of all ~~costs~~ such  
6 prudently incurred ~~in the siting, design, licensing, and construction of a nuclear~~  
7 power plant costs.

8 ~~—— (2) Costs incurred during the “Preconstruction” period, as defined in~~  
9 ~~Section 366.93(1)(d), Florida Statutes, shall be afforded deferred accounting~~  
10 ~~treatment and shall accrue a carrying charge equal to the utility’s allowance for~~  
11 ~~funds used during construction (AFUDC) rate until recovered in rates.~~

12 ~~—— (3) For nuclear power plant petitions for determination of need pursuant~~  
13 ~~to Section 403.519, Florida Statutes, submitted on or before December 31, 2010,~~  
14 ~~the associated carrying costs shall be equal to the pretax AFUDC in effect on June~~  
15 ~~19, 2006. For nuclear power plant need petitions submitted after December 31,~~  
16 ~~2010, the utility’s pretax AFUDC rate in effect at the time the petition for~~  
17 ~~determination of need is filed is presumed to be appropriate unless the~~  
18 ~~Commission determines otherwise in its need determination Order.~~

19 (2) As used in this rule:

20 (a) “Nuclear power plant” or “plant” is an electrical power plant  
21 that utilizes nuclear materials as fuel, as defined in section  
22 403.503(12), Florida Statutes.

23 (b) “Cost” includes, but is not limited to all capital investments  
24 including rate of return, any applicable taxes and all expenses.

1 including operation and maintenance expenses, related to or  
2 resulting from the siting, licensing, design, construction or  
3 operation of the nuclear power plant.

4 (c) "Preconstruction costs" are costs that are expended in  
5 preparation for the construction of a nuclear power plant, incurred  
6 up to and including the date the utility completes site clearing  
7 work. These costs include, but are not limited to, any and all costs  
8 associated with preparing, reviewing and defending a Combined  
9 Operating License (COL) application for a nuclear power plant,  
10 cost of engineering, designing and permitting the nuclear power  
11 plant, or any litigation costs related thereto, costs associated with  
12 site and technology selection, clearing, grading and excavation,  
13 and cost of on-site construction facilities (i.e. construction offices,  
14 warehouses, etc.)

15 (d) "Construction costs" are costs that are expended to construct  
16 the nuclear power plant including any litigation costs related  
17 thereto. These costs include, but are not limited to, constructing  
18 nuclear power plant buildings and all associated permanent  
19 structures, equipment and systems.

20 (3) Preconstruction costs shall be afforded deferred accounting treatment  
21 and shall accrue a carrying charge equal to the utility's allowance for funds used  
22 during construction (AFUDC) until recovered in rates.

23 (4) After the Commission has issued a final order granting a determination  
24 of need pursuant to Section 403.519, Florida Statutes:  
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1 (a) A utility may petition the Commission for cost recovery as permitted  
2 under this rule;

3 (b) ~~In its annual report filed pursuant to Rule 25-6.135, a utility shall~~  
4 ~~include the budgeted and actual costs as compared to the estimated in-service cost~~  
5 ~~of the nuclear power plant until commercial operation of the nuclear power plant~~  
6 ~~begins;~~

7 ~~—(e) A utility is entitled to recover, through the Capacity Cost Recovery~~  
8 ~~Clause, all prudently incurred its actual and projected preconstruction costs and~~  
9 ~~the related carrying costs on the utility's annual projected construction cost~~  
10 ~~balance associated with the nuclear power plant, without regard to whether~~  
11 ~~construction of the nuclear power plant is completed. Such costs shall be~~  
12 ~~recovered over a period equal to the period during which the costs were incurred~~  
13 ~~or 5 years, whichever is greater. The unrecovered balance during the recovery~~  
14 ~~period will accrue interest at the utility's actual overall weighted average~~  
15 ~~midpoint cost of capital on a FPSC Adjusted basis as reported by the utility in its~~  
16 ~~Earnings Surveillance Report filed in December of the prior year. charge. Such~~  
17 ~~costs will be recovered, on an annual basis, based on the utility's projection.~~

18 (c) A utility is entitled to recover, through the utility's Capacity Cost  
19 Recovery Clause, the carrying costs on the utility's annual projected construction  
20 cost balance associated with the nuclear power plant, and shall reduce the  
21 AFUDC that would otherwise have been recorded as a cost of construction  
22 eligible for future recovery as plant in service. For nuclear power plant need  
23 petitions submitted on or before December 31, 2010, the associated carrying costs  
24 shall be equal to the pretax AFUDC in effect on June 19, 2006. For nuclear  
25

1 power plant need petitions submitted after December 31, 2010, the utility's pretax  
2 AFUDC rate in effect at the time the petition for determination of need is filed is  
3 presumed to be appropriate unless the Commission determines otherwise in its  
4 need determination Order.

5 \_\_\_\_\_ (d) The difference between actual and projected ~~cost~~ costs as filed in the  
6 Capacity Cost Recovery Clause will be included for cost recovery purposes as a  
7 component of the over/under recovered balance to be included in the following  
8 year's cost recovery proceeding for the Capacity Cost Recovery Clause.

9 \_\_\_\_\_ (5) After a nuclear power plant is placed in commercial service:

10 \_\_\_\_\_ (a) The utility may file for a limited proceeding to increase its base rate  
11 charges by the projected annual revenue requirements for the nuclear power plant  
12 based on the jurisdictional annual revenue requirements for the plant for the first  
13 12 months of operation and at such time as plant is included in base rates,  
14 recovery through the clause will cease;

15 \_\_\_\_\_ (b) The rate of return on capital investments shall be calculated using the  
16 utility's most recent actual overall weighted average rate of return on a  
17 FPSC Adjusted basis as reported by the utility in its Earnings Surveillance  
18 Report using the midpoint of the return on equity range last approved by the  
19 Commission prior to the commercial inservice date of the nuclear power plant. In  
20 the event that the utility is operating under a rate agreement that does not specify  
21 and approved overall rate of return. ;

22 \_\_\_\_\_ (c) The net book value of any existing generating plant that is retired as a  
23 result of operation of the nuclear plant shall be recovered through an increase in  
24 base rate charges over a period not to exceed 5 years;

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CODING: Words underlined are additions; words in ~~struck through~~ type are deletions from existing law.

1 (d) At the end of the recovery period base rates shall be reduced by the  
2 amount associated with the recovery.

3 \_\_\_\_\_  
4 (5) In the event the utility elects not to complete or is precluded from  
5 completing construction of the nuclear power plant, the utility shall be allowed to  
6 recover all prudent preconstruction and construction costs incurred following the  
7 commission's issuance of a final order granting a determination of need for the  
8 nuclear power plant. The utility shall recover such costs through the Capacity  
9 Cost Recovery Clause over a period equal to the period during which the costs  
10 were incurred or 5 years, whichever is greater. The amount recovered under this  
11 section will be the remaining unrecovered Construction Work In Progress balance  
12 at the time of abandonment and future payment of all outstanding costs. The  
13 unrecovered balance during the recovery period will accrue interest at the utility's  
14 actual overall weighted average midpoint cost of capital on a FPSC Adjusted  
15 basis as reported by the utility in its Earnings Surveillance Report filed in  
16 December of the prior year.

17 (6) As operating units or systems associated with the nuclear power plant  
18 and the nuclear power plant itself, are placed in commercial service:

19 (a) The utility shall calculate and submit for Commission confirmation the  
20 increase in base rates resulting from the jurisdictional annual base revenue  
21 requirements for the nuclear power plant in conjunction with the Capacity Cost  
22 Recovery Clause projection filing for the year the nuclear power plant is projected  
23 to achieve commercial operation. The increase in base rates will be based on the  
24 annualized base revenue requirements for the nuclear power plant for the first 12  
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1 months of operations consistent with the cost projections filed in conjunction with  
2 the Capacity Cost Recovery Clause projection filing. At such time as the nuclear  
3 power plant is included in base rates, recovery through the Capacity Cost  
4 Recovery Clause will cease, except for the difference between actual and  
5 projected construction costs as provided in paragraph (4)(d) above.

6 (b) The rate of return on capital investments shall be calculated using the  
7 utility's most recent actual overall weighted average rate of return on a FPSC  
8 Adjusted basis as reported by the utility in its Earnings Surveillance Report using  
9 the midpoint of the return on equity range last approved by the Commission prior  
10 to the commercial in service date of the nuclear power plant;

11 (c) The jurisdictional net book value of any existing generating plant that  
12 is retired as a result of operation of the nuclear power plant shall be recovered  
13 through an increase in base rate charges over a period not to exceed 5 years.

14 (7) On an annual basis following the final determination of need Order  
15 and until commercial operation of the nuclear power plant, a utility shall include  
16 the budgeted and actual costs as compared to the estimated in-service costs of the  
17 nuclear power plant as provided in the petition for need determination in its  
18 annual report filed pursuant to Rule 25-6.135. The estimates provided in the  
19 petition for need determination are non-binding estimates. Some costs may be  
20 higher than estimated and other costs may be lower. A utility shall provide such  
21 revised estimated in-service costs as may be necessary in its annual report.

22 *Specific Authority 350.127(2), 366.05(1). Law Implemented 366.93 FS.*