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Subject:
Attachments: 060007 prehearing statement.doc

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. Docket No. 060007-EG

on re: Environmental Cost Recovery Clause

. Document being filed on behalf of Office of Public Counsel

. There are a total of 3 pages.

. The document attached for electronic filing is Citizens' Prehearing Statement.

Thank you for your attention and cooperation to this request.

Phyllis Davis
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DOCUMENT NUMBER-DATE

09179 OCT-4 8

FPSC-COMMISSION CLERK

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Environmental cost recovery clause) DOCKET NO. 060007-EI
)
) FILED: October 4, 2006

PREHEARING STATEMENT OF THE OFFICE OF PUBLIC COUNSEL

The Citizens of the State of Florida, through the Office of Public Counsel, pursuant to the Order Establishing Procedure in this docket, Order No. PSC-06-0220-PCO-EI, issued March 17, 2006, submit this Prehearing Statement.

APPEARANCES:

PATRICIA A. CHRISTENSEN, Esquire
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JOSEPH A. MCGLOTHLIN, Esquire
Associate Public Counsel
CHARLES J. BECK, Esquire
Deputy Public Counsel
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c/o The Florida Legislature
111 West Madison Street, Room 812
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On behalf of the Citizens of the State of Florida.

1. **WITNESSES:**

None.

2. **EXHIBITS:**

None.

3. **STATEMENT OF BASIC POSITION**

OPC has no basic position at this time.

DOCUMENT NUMBER-DATE

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FPSC-COMMISSION CLERK

4. STATEMENT OF FACTUAL ISSUES AND POSITIONS

ISSUE 1: What are the final environmental cost recovery true-up amounts for the period ending December 31, 2005?

OPC: No position at this time.

ISSUE 2: What are the estimated environmental cost recovery true-up amounts for the period January 2006 through December 2006?

OPC: No position at this time.

ISSUE 3: What are the projected environmental cost recovery amounts for the period January 2007 through December 2007?

OPC: No position at this time pending the outcome of outstanding discovery.

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

OPC: No position at this time.

ISSUE 5: What depreciation rates should be used to develop the depreciation expense included in the total environmental cost recovery amounts for the period January 2007 through December 2007?

OPC: No position at this time.

ISSUE 6: What are the appropriate jurisdictional separation factors for the projected period January 2007 through December 2007?

OPC: No position at this time.

ISSUE 7: What are the appropriate environmental cost recovery factors for the period January 2007 through December 200, for each rate group?

OPC: No position at this time.

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

OPC: No position at this time.

COMPANY SPECIFIC ISSUES.

Florida Power & Light Co. (FPL)

ISSUE 9A: Should the Commission approve FPL's request for recovery of compliance costs relating to the Clean Air Mercury Rule as a project that qualifies for recovery through the ECRC?

OPC: No. Recovery at this time would be premature. Given the truncated nature to the annual fuel and ECRC proceedings, FPL should be required to file a separate petition for its CAMR and CAIR projects to allow parties sufficient opportunity to review said projects in a comprehensive and thorough manner.

ISSUE 9B: Should the Commission approve the inclusion of Turkey Point unit 5 as part of FPL's previously approved Selective Catalytic Reduction Consumables project?

OPC: No position at this time.

ISSUE 9C: Are FPL's Legal Expenses challenging implementation of the CAIR rule included in base rates?

OPC: Yes. Base rates are designed to recover a total revenue requirement that encompasses the various categories of costs of conducting the utility business, one of which is legal expenses. Once base rates take effect, the actual levels of expenses will vary from the amounts reflected in the overall revenue requirement. Increases in one category may be offset by reductions in others, and the total change may be more than offset by increases in revenues resulting from customer growth or increases in usage. So even if the cost of a particular legal action was not used in setting the revenue requirement, these costs are still recovered. Thus, attempting to roll these costs through the ECRC clause would be an inappropriate abuse of the clause.

If the cost/revenue relationship alters to the extent base rates are inadequate, the utility (subject to the terms of a settlement, where

applicable) may request authority to adjust the base rates. The utility cannot circumvent the distinction between items properly recovered through base rates and those appropriate for recovery through a special clause—or the terms of a settlement in which the utility pledged to withhold requests for an adjustment to base rates—by flowing costs normally recovered through base rates through a cost recovery clause on the grounds that the specific costs were not in the MFRs.

Progress Energy Florida, Inc.

ISSUE 10A: Should the Commission approve inclusion of the costs in the 2007 ECRC factors of PEF's Modular Cooling Tower Project subject to refund including interest pending resolution of Docket No. 060162-EI?

OPC: No position at this time.

Tampa Electric Company

ISSUE 11A: Should the Commission approve inclusion of the costs in the 2007 ECRC factors of TECO's Flue Gas Desulfurization Reliability Project subject to refund including interest pending resolution of Docket No. 050958-EI

STIPULATION: Yes, the Commission should allow inclusion of the costs in the 2007 ECRC factors of TECO's Flue Gas Desulfurization Reliability Project subject to refund including interest pending the resolution of Docket No. 050958-EI.

Gulf Power Company

ISSUE 12A: Should the Commission approve Gulf's request for recovery of compliance costs relating to the Clean Air Interstate Rule and the Clean Air Mercury Rule as a project that qualifies for recovery through the ECRC?

OPC: No. Recovery at this time would be premature. Given the truncated nature to the annual fuel and ECRC proceedings, Gulf should be required to file a separate petition for its CAMR and CAIR projects to allow parties sufficient opportunity to review said projects in a comprehensive and through manner.

ISSUE 12B: Should the Commission approve Gulf's request for recovery of its

General Water sampling quality boat as a project that qualifies for recovery through the ECRC?

OPC: No position at this time.

5. **STIPULATED ISSUES:**

TECO and OPC have reached an agreement on Issue 11A. Please see issue for the wording of the stipulation.

6. **PENDING MOTIONS:**

None.

7. **STATEMENT OF PARTY'S PENDING REQUESTS OR CLAIMS FOR CONFIDENTIALITY:**

Citizens have no pending requests for claims for confidentiality.

8. **OBJECTIONS TO QUALIFICATION OF WITNESSES AS AN EXPERT:**

Citizens do not expect to challenge the qualification of any witness.

9. **STATEMENT OF COMPLIANCE WITH ORDER ESTABLISHING PROCEDURE:**

There are no requirements of the Order Establishing Procedure with which the Office of Public Counsel cannot comply.

Dated this 4th day of October, 2005.

Respectfully submitted,

s/Patricia A. Christensen

Patricia A. Christensen

Florida Bar No. 0989789

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Office of Public Counsel

c/o The Florida Legislature

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by electronic mail and U.S. Mail on this 4th day of October, 2006, to the following:

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