

BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

In the Matter of:

PETITION FOR INCREASE IN
RATES BY PROGRESS ENERGY
FLORIDA, INC.

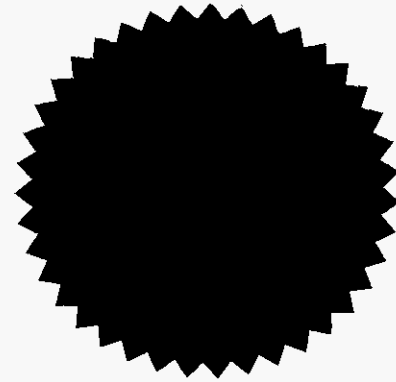
DOCKET NO. 090079-EI

PETITION FOR LIMITED
DOCKET NO. 090144-EI
PROCEEDING TO INCLUDE
BARTOW REPOWERING PROJECT
IN BASE RATES, BY PROGRESS
ENERGY FLORIDA, INC.

PETITION FOR EXPEDITED APPROVAL
OF THE DEFERRAL OF PENSION
EXPENSES, AUTHORIZATION TO
CHARGE STORM HARDENING EXPENSES
TO THE STORM DAMAGE RESERVE, AND
VARIANCE FROM OR WAIVER OF RULE
25-6.0143(1)(C), (D), AND (F),
F.A.C., BY PROGRESS ENERGY
FLORIDA, INC.

DOCKET NO. 090145-EI

PETITION FOR APPROVAL OF AN
DOCKET NO. 100136-EI
ACCOUNTING ORDER TO RECORD A
DEPRECIATION EXPENSE CREDIT,
BY PROGRESS ENERGY FLORIDA, INC.



PROCEEDINGS:

AGENDA CONFERENCE
ITEM NO. 5

COMMISSIONERS
PARTICIPATING:

CHAIRMAN NANCY ARGENZIANO
COMMISSIONER LISA POLAK EDGAR
COMMISSIONER NATHAN A. SKOP

DATE:

Tuesday, June 1, 2010

TIME:

Commenced at 1:09 p.m.
Concluded at 1:26 p.m.

DOCUMENT NUMBER-DATE

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FPSO-COMMISSION CLERK

PLACE:

Betty Easley Conference
Center
Room 148
4075 Esplanade Way
Tallahassee, Florida

REPORTED BY:

LORI DEZELL, RPR

P R O C E E D I N G S

1
2 **CHAIRMAN ARGENZIANO:** Okay. We're going to
3 move to item -- Issue 5 and then we'll go to 3, 4
4 and 13.

5 Looks like everybody is ready.

6 **MR. SLEMKEWICZ:** I'm John Slemkewicz with
7 staff. Item 5 addresses a proposed stipulation and
8 settlement agreement. It is intended to resolve
9 all of the outstanding issues in PEF's rate case
10 concerning the various motions and cross motions
11 for reconsideration that have been filed. The
12 stipulation also resolves any outstanding issues of
13 several other related dockets.

14 Basically the stipulation freezes base rates
15 until 2013, allows PEF the discretion to record
16 credits to its depreciation expense, allows PEF the
17 discretion to accelerate the amortization of
18 certain regulatory assets, and provides a procedure
19 for the recovery of storm damage cost.

20 Staff is recommending approval of the proposed
21 stipulation. Representatives of the parties are
22 present and staff is prepared to answer any of the
23 Commissioners' questions.

24 **CHAIRMAN ARGENZIANO:** Commissioner Skop?

25 **COMMISSIONER SKOP:** Thank you, Madam Chair.

1 Just a few questions with respect to the proposed
2 stipulation and settlement agreement. To either
3 staff or the company, the agreement did not speak
4 to this but I think it's important to ask, what
5 return on equity will be used to establish the
6 AFUDC over the term of the agreement? Will it be
7 the midpoint or some other point?

8 **MR. MAUREY:** 10.5.

9 **COMMISSIONER SKOP:** The midpoint will? And
10 mr. Glenn, is that your understanding?

11 **MR. GLENN:** Yes.

12 **COMMISSIONER SKOP:** All right. Thank you.
13 And then just incorporating lessons learned from
14 the 2005 settlement agreement, with respect to
15 seeking rate relief at the floor, again that was a
16 source of contention from Public Counsel trying --
17 in terms of taking an adverse position against the
18 language in the agreement as well as with respect
19 to the Bartow plant. Again there was some
20 disagreement amongst the parties there, and I just
21 wanted to look to Mr. Glenn, to your company, and
22 to Public Counsel to gain appreciation that those
23 issues will hopefully not arise in the future as
24 they crept up this time at the end of the
25 settlement term.

1 **MS. GLENN:** Commissioner Skop, Alex Glenn on
2 behalf of Progress Energy Florida. We would -- we
3 would hope that would be the case. We deferred to
4 Public Counsel on whether they would challenge it.
5 But no, I think we've addressed those issues in
6 this settlement. You raise an excellent point.

7 **COMMISSIONER SKOP:** Okay.

8 **MR. REHWINKEL:** Would you --

9 **COMMISSIONER SKOP:** Yes, Mr. Rehwinkel.

10 **MR. REHWINKEL:** Charles Rehwinkel on behalf of
11 Public Counsel's office. The Public Counsel was
12 very, very pleased to enter into this agreement in
13 that it resolves every aspect of those dockets and
14 those issues. So the answer to your question is an
15 emphatic yes, Commissioner.

16 **COMMISSIONER SKOP:** Thank you. And it seems
17 as if the language perhaps is a little bit tighter
18 than the prior agreement to hopefully preclude any
19 misinterpretation by either party on a
20 forward-going basis.

21 And Madam Chair, if there's any -- no further
22 questions, I do have some additional comments at
23 the appropriate time.

24 **CHAIRPERSON ARGENZIANO:** Commissioner Edgar?

25 **COMMISSIONER EDGAR:** Thank you. First to our

1 staff and then to any -- anybody else who would
2 like to respond as well. I'm looking at
3 Paragraph 6 which deals with the treatment of cost
4 recovery under the clauses.

5 Specifically I'd like to ask about the
6 language that deals specifically with storm damage
7 costs and how, if indeed there were to be a named
8 storm or hurricane during the period that this
9 agreement would be in place, how would the
10 treatment of costs incurred be determined and
11 handled differently or similarly than we have here
12 at the Commission in the past years?

13 **MR. SLEMKEWICZ:** The -- it would be handled
14 pretty similarly to the way it has been handled in
15 the past except the -- you know, the costs are
16 still subject to the way they're to be recovered
17 through our rule.

18 However, the stipulation allows
19 Progress Energy to implement a surcharge of up to
20 \$4 per thousand for a residential customer
21 initially. And then if there's anything in excess
22 of that, it's up to the Commission's discretion of
23 how much longer the -- they would be able to
24 recover that through a surcharge.

25 **COMMISSIONER EDGAR:** And how would a

1 determination of costs as direct or indirect as a
2 result of storm damage be determined?

3 **MR. SLEMKEWICZ:** Per the rule. There wouldn't
4 be any difference in the way the costs would be
5 determined.

6 **COMMISSIONER EDGAR:** Okay.

7 **CHAIRPERSON ARGENZIANO:** Commissioner Skop?

8 **COMMISSIONER SKOP:** Thank you, Mr. Chair.
9 This is in follow-up to Commissioner Edgar's
10 question on Paragraph 6. I guess I would assume
11 that the storm damage reserve funds would be used
12 first, and if those were not sufficient, then
13 Progress would seek surcharge relief under --

14 **MR. SLEMKEWICZ:** That's correct, but only if
15 it exceeds the storm damage reserve balance with a
16 state recovery.

17 **COMMISSIONER SKOP:** And the Paragraph 6 also
18 allows Progress to use a surcharge to replenish the
19 storm damage reserve account if it is depleted in
20 the instance of a named storm?

21 **MR. SLEMKEWICZ:** That's correct, to the level
22 that it would be if this stipulation is approved.

23 **COMMISSIONER SKOP:** Okay. And with respect to
24 the named storm criterion, and Mr. Glenn, I just
25 wanted to ask you about this.

1 It has to be a named storm. And so, for
2 instance, I guess it's not envisioned that tornadic
3 activity of any form in the state of Florida would
4 arise to a catastrophe sufficient enough to have
5 this provision kick in; is that correct?

6 **MS. GLENN:** That's correct. To the extent
7 that tornadic activity can -- can be included in
8 this, it would. But typically those are not named
9 storms.

10 **COMMISSIONER SKOP:** All right. Thank you. I
11 just have some comments.

12 **COMMISSIONER EDGAR:** Can I just ask, are there
13 statements that any of the participating parties
14 would like to make separate from answering specific
15 questions?

16 **CHAIRPERSON ARGENZIANO:** I'll go in order.
17 Mr. Glenn?

18 **MS. GLENN:** Briefly. Madam Chairman,
19 Commissioners, thank you for the opportunity to
20 speak.

21 We support the staff's recommendation that the
22 Commission approve the rate settlement. We believe
23 it's in the best interest of our customers and the
24 company. The settlement which does include a base
25 rate freeze through 2012 will give our customers,

1 we believe, some needed economic relief and it will
2 also give the company greater certainty and how it
3 will manage the present, plan for the future, and
4 really focus on what's important, and that's
5 providing safe and reliable electric service to our
6 customers.

7 Finally, I did want to note and acknowledge
8 the leadership of both the Attorney General and his
9 outstanding staff, Cecilia Bradley as well as Trish
10 Connors and the Public Counsel, J.R. Kelly and his
11 outstanding assistance, Charles Rehwinkel and
12 Charlie Beck, who were instrumental in getting this
13 deal done. And I appreciate their work on this.
14 Thank you.

15 **CHAIRPERSON ARGENZIANO:** Thank you.

16 Mr. Rehwinkel?

17 **MR. REHWINKEL:** Thank you, Commissioners. I
18 would echo the remarks of Progress with respect to
19 how pleased we were. We were very pleased to
20 support the staff's recommendation here today. The
21 Public Counsel is firmly convinced that this
22 settlement is in the best interest of the
23 customers, of the company and the state of Florida,
24 and we think that all -- we thank all parties for
25 putting aside their differences, issues, and

1 positions for the better good of all. Thank you.

2 **CHAIRPERSON ARGENZIANO:** Thank you.

3 Cecilia Bradley from the Attorney General's Office.

4 **MS. BRADLEY:** Thank you. I'd like to say we
5 appreciate the efforts of everybody. I told
6 somebody, before we started out here, this truly
7 was a team effort. And I don't know if Mr. Wright
8 and other -- Mr. Wiggins have gotten here, but they
9 both indicated their support for this.

10 And you all had a couple of questions about a
11 couple of paragraphs, and I can assure you we have
12 spent many, many hours negotiating through that and
13 trying to make sure this was as tight as possible
14 to avoid any recurrence of any problems that we
15 have had in the past. And we appreciate everyone,
16 including the company, support. We feel like this
17 is a good deal for the citizens and provides some
18 certainty for them as well as for the company.

19 You know, we'd also like to provide more for
20 the customers because I know people in this economy
21 are struggling, but we think this is a good deal
22 and provides some certainty for the next few years.
23 So we would urge you to approve this settlement
24 agreement. Thank you.

25 **CHAIRPERSON ARGENZIANO:** Thank you.

1 Mr. John Moyle, FIPUG?

2 **MR. MOYLE:** Thank you. Thank you, Madam
3 Chairman. On behalf the Florida Industrial Power
4 Users Group, we also would recommend that you
5 approve the staff recommendation.

6 The -- probably one of the most appealing
7 points on this is that no new rates can go into
8 effect until 2013, and that gives some certainty
9 and stability to members of FIPUG and others as
10 hopefully we are coming out of this very tough
11 economic time. So we would ask you to favorably
12 consider and vote on the recommendation.

13 A lot of times somebody had asked me, well,
14 what do you think about the settlement? And
15 usually on settlements, you're not doing back
16 somersaults. And that's the case here.

17 I think it's a fair deal. There was a lot of
18 give and take. Some of it equated to like a tie
19 game. You know, there's not a winner or a loser
20 kind of thing, but we think it's fair and we think
21 it ought to be approved. So thank you.

22 And I'd also echo the comments this was a very
23 long journey to get to this point. The Commission
24 spent a lot of time on it, your staff spent a lot
25 of time on it, the litigants spent a lot of time on

1 it, and everybody rolled up their sleeves and put
2 in a good effort. I want to thank everyone who
3 invested the time in these cases. Thank you.

4 **CHAIRPERSON ARGENZIANO:** Thank you.

5 Mr. James Brew, White Springs.

6 **MR. BREW:** Thank you, Madam Chairman. I'm
7 James Brew for White Springs Agricultural
8 Chemicals. I just want to reiterate what's already
9 been said.

10 This is a particularly well-balanced agreement
11 and in our view, particularly the duration of the
12 base rate freeze is particularly important because
13 from where we're sitting, the recovery is going to
14 be slow and uneven. And to provide this measure of
15 stability was important. I think credit to all the
16 parties that recognized that and worked to put
17 something together.

18 **CHAIRMAN ARGENZIANO:** Thank you. Mr. Scheff
19 Wright?

20 **MR. WRIGHT:** Thank you, Madam Chairman. I
21 apologize. It looked like the other matters were
22 going to continue longer.

23 We support the settlement and we're proud to
24 be a part of it. Thank you very much.

25 **CHAIRPERSON ARGENZIANO:** Thank you. Mr. Van

1 Dyke? Is he here? No? Okay. You're up.

2 **MR. WIGGINS:** Patrick Wiggins for AFFIRM.

3 We're here today to support the stipulation and the
4 staff recommendation. We're not a signatory to the
5 agreement because we were involved only on the more
6 narrow issues of rate structure which we look
7 forward to working with Progress Energy in light of
8 how the orders are currently written, and we
9 totally support the process that brought us to this
10 recommendation.

11 **CHAIRMAN ARGENZIANO:** Thank you. Any other
12 questions? Commissioner Skop?

13 **COMMISSIONER SKOP:** No questions, Madam Chair.
14 I do have some comments if this is the appropriate
15 time.

16 **CHAIRPERSON ARGENZIANO:** Go right ahead.

17 **COMMISSIONER SKOP:** Thank you, Madam Chair.

18 Commissioners, I just -- from my perspective,
19 the joint stipulation and settlement agreement
20 before us today is perhaps the most fair and
21 balanced agreement the Florida Public Service
22 Commission has ever approved.

23 It's important to recognize that the
24 settlement agreement validates the Commission's
25 decision in the Progress rate case and all material

1 aspects including authorized return on equity.

2 Specifically the settlement agreement freezes
3 base rates protecting Progress Energy Florida
4 customers from base rate increases during the term
5 of the agreement while ensuring the financial
6 health and integrity of the utility by affording
7 Progress the ability to manage its earnings for
8 financial reporting purposes.

9 Simply put, the settlement agreement
10 represents constructive regulation of which
11 protractive litigation and promotes a constructive
12 regulatory environment in which Progress management
13 astutely balances the prevailing economic
14 conditions affecting its customers with the need to
15 earn a reasonable rate of return to ensure the
16 financial health of the utility.

17 Settlement agreement has my first
18 endorsement -- I mean by full endorsement, and I
19 would be the first person to stand up and tell
20 Progress customers that the agreement is in the
21 public interest and clearly benefits them.

22 Just a few additional comments with respect to
23 the return on equity. The return on equity that is
24 encompassed by the settlement agreement is exactly
25 as it was decided by the Commission, a midpoint ROE

1 of 10-and-a-half percent.

2 It does provide a floor or rate relief within
3 the plus or minus 100 basis points. Has a ceiling,
4 and the return on equity here is capped unlike the
5 provision of the 2005 settlement agreement. So
6 Progress is limited on the upside. But again, the
7 trade-off is that they have flexibility within this
8 agreement without passing additional costs on to
9 the ratepayers.

10 With respect to Bartow, again Bartow was
11 highly contested in conjunction with the 2005
12 settlement agreement. And I'm glad that the
13 agreement amongst the parties resolves that
14 disagreement, at least from my perspective. Once a
15 plant is placed in service, absent any other
16 provision to the contrary, it should be reasonably
17 entitled to cost recovery. And I think that the
18 Commission decided that, but again it was subject
19 to litigation that could have gone on for quite a
20 little bit of time.

21 And finally, Madam Chair, with respect to the
22 storm damage provision, I think that it provides
23 excellent mechanism for allowing Progress to access
24 required funding in the event of a catastrophic
25 storm. They do have the existing storm balance.

1 The Commission opted not to accrue additional funds
2 to that. But this agreement in a major storm gives
3 Progress the ability to timely recover funds needed
4 for storm restoration, and it's analogous to a line
5 of operation in operation. You don't need it now
6 but it's there if you need it. And I think it's a
7 win-win for everyone and I'm proud to be a part of
8 the settlement.

9 **CHAIRPERSON ARGENZIANO:** Commissioner Edgar?

10 **COMMISSIONER EDGAR:** Thank you. Just briefly.
11 I think that consensus is a wonderful thing,
12 probably even more so when hard fought and hard
13 won.

14 So I want to thank all the parties for all of
15 the work and for being willing to put into the work
16 to bring forward a joint document. I also thank
17 our staff for their work in helping us to get here
18 and in giving us a thorough recommendation for
19 today.

20 I do believe, though I believe strongly in
21 settlements in most instances, I also take very
22 seriously the responsibility of this Commission to
23 review and to be comfortable with our approval
24 process of a settlement document that is brought
25 forward for consideration.

1 And so with that, Madam Chair, I would move
2 approval of the staff recommendation.

3 **COMMISSIONER SKOP:** Second.

4 **CHAIRMAN ARGENZIANO:** Okay. I just want to
5 say very quickly that I think staff did a fantastic
6 job, everybody together did a great job. I mean,
7 this is really what it's all about and I think it
8 just turned out to be the best for all involved.
9 So thank you all for working so hard.

10 And with the second, all those in favor say
11 aye.

12 (Unanimous.)

13 **CHAIRMAN ARGENZIANO:** All those opposed same
14 sign. Thank you very much.

15 **COMMISSIONER SKOP:** Thank you to the parties.

16 (Discussion concluded.)

17 * * *

CERTIFICATE OF REPORTER

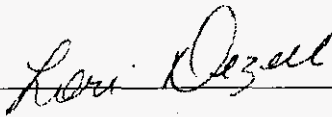
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STATE OF FLORIDA)
COUNTY OF LEON)

I, LORI DEZELL, RPR, CCR, certify that I was authorized to and did stenographically report the proceedings herein, and that the transcript is a true and complete record of my stenographic notes.

I further certify that I am not a relative, employee, attorney or counsel of any of the parties, nor am I a relative or employee of any of the parties' attorney or counsel connected with the action, nor am I financially interested in the action.

WITNESS my hand and official seal this 3rd day of June, 2010.



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