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Joseph A. McGlothlin
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March 1, 2005

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: 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.; Docket No. 041272-EI

Dear Ms. Bayó:

Enclosed are an original and fifteen copies of Citizens' Prehearing Statement for filing in the above-referenced docket.

Also enclosed is a 3.5 inch diskette containing Citizens' Prehearing Statement in Microsoft Word format. Please indicate receipt of filing by date-stamping the attached copy of this letter and returning it to this office. Thank you for your assistance in this matter.

Sincerely,

A handwritten signature in black ink that reads "Joe A. McGlothlin".

Joseph A. McGlothlin
Associate Public Counsel

JAM/dsb
Enclosures

DOCUMENT NUMBER-DATE

02138 MAR-1 05

FPSC-COMMISSION CLERK

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: 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.

Docket No. 041272-EI
Filed: March 1, 2005

CITIZENS' PREHEARING STATEMENT

The Citizens of the State of Florida, through their attorney, the Public Counsel, pursuant to Order No. PSC-04-1151-PCO-EI hereby file this Prehearing Statement for the above-referenced docket.

APPEARANCES:

PATRICIA A. CHRISTENSEN, ESQUIRE
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JOSEPH A. MCGLOTHLIN, ESQUIRE
Associate Public Counsel
Office of Public Counsel
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111 West Madison Street, Room 812
Tallahassee, Florida 32399-1400
On behalf of the Citizens of the State of Florida

(1) WITNESSES:

The Citizens intend to call the following witnesses, who will address the issues indicated:

<u>NAME</u>	<u>ISSUES</u>
James A. Rothschild	15, 16
Michael J. Majoros	2,3,5,6,7,10,12,15(calculation),16(calculation),17

(2) EXHIBITS:

Through Mr. Rothschild, the Citizens intend to introduce the following schedules, which can be identified on a composite basis:

JAR-1 Eastern electric utilities and their earned rates of return

JAR-2* Appendix A—List of prior appearances

Through Mr. Majoros, the Citizens intend to introduce the following schedules, which can be identified on a composite basis:

<u>ID No.</u>	<u>Subject</u>
MJM-1	Summary of PEF's basic estimates
MJM-2	Cost of removal reserve at September 2004
MJM-3	Comparison of non-recoverable O&M
MJM-4	PEF's treatment of budgeted overtime
MJM-5	Extent of authority provided by PSC-93-1522-FOF-EI
MJM-6	Base salaries included in storm damage claim
MJM-7	Transportation costs to be excluded from storm recovery claim
MJM-8	Summary of recommended adjustments
MJM-9*	Appendix—witness qualifications

(3) STATEMENT OF BASIC POSITION:

Progress Energy has failed to adhere to the terms of a 2002 stipulation in which it agreed to refrain from seeking increases in base rates unless increased expenses caused its return on equity to drop below 10%. PEF's current, post-hurricane request for a "storm cost recovery clause" is a transparent and disingenuous effort to avoid its obligations under the stipulation. Further, as the 10% ROE "floor" of the stipulation is a more than reasonable return on investment under current economic conditions, no grounds exist which would justify modifying or supplanting the stipulation pursuant to "public interest" considerations. The Commission should reject PEF's proposal out of hand and enforce the terms of the stipulation.

Even if there were no binding stipulation, the Commission should require PEF's shareholders to share the risk and burden of the extraordinary storm damage expenses with

* JAR-2 and MJM-9, appendices containing the witnesses' background, were attached to the prefiled testimony but were not labeled as exhibits at the time.

ratepayers. Ratepayers compensate investors for the risks of their investment by providing, through the rates they pay, a return that is commensurate with those risks. It would be inequitable and unfair to require customers to compensate investors fully for assuming business risks, which in Florida include the potential for hurricane damage, and then place on customers 100% of the burden of storm damages through an approach that insulates investors from the risk they are paid to accept. Again, a return on equity of 10% is more than adequate to provide a reasonable return on shareholders' investment under prevailing economic conditions.

Accordingly, then, whether to enforce the 2002 stipulation or whether—independent of the stipulation—to allocate storm costs fairly and equitably between ratepayers and stockholders, the Commission should require PEF to absorb storm-related costs to the extent required to reduce its ROE to 10%. Based on available information for 2004, the Commission should disallow approximately \$108 million of jurisdictional expense from PEF's storm recovery request in order to accomplish this result.

With respect to the identification and quantification of storm-related costs that are eligible to be charged to the storm damage reserve, PEF should book to the storm reserve only those extraordinary costs that are incremental to the expenditures the utility would make if there had been no storms. Instead, through its proposed storm surcharge Progress Energy has charged customers for expenses that are currently recovered through base rates. This “double dipping” practice resulted in O&M expenses lower than budgeted levels, and increases in reported net income, during the periods when PEF was repairing its system and restoring service. Unless the Commission adjusts PEF's proposal by denying recovery for such items as basic labor salaries, management salaries, vehicle expense and tree-trimming expenses, to name just a few, then PEF effectively would require ratepayers to pay twice for the same expense.

Because substantial portions of the PEF request are conceptual in nature and not final, the Commission should first require the company to adhere to appropriate accounting mechanisms before PEF finalizes its booking of 2004 expenses to the storm reserve.

(4-6) ISSUES AND POSITIONS:

ISSUES 1 – 14 ARE STORM-RELATED COST ISSUES

ISSUE 1: Did PEF act reasonably and prudently prior to the storms to minimize storm-related costs? If not, to what extent should the proposed recovery amount be adjusted?

OPC: No position.

ISSUE 2: Has PEF quantified the appropriate amount of non-management employee labor payroll expense that should be charged to the storm reserve? If not, what adjustments should be made?

OPC: No. PEF has charged to the storm reserve basic levels of non-management employee labor expense that is paid for by customers through base rates—expenses that PEF would have incurred even if there had been no storms. By charging these expenses to the storm reserve, PEF is attempting to require customers to pay them twice. The Commission should prevent this “double dipping” by requiring PEF to charge only extraordinary expenses, incremental to base levels, to the storm reserve. This means only overtime labor expense of bargaining unit employees (and non-exempt management) should be charged to the storm reserve. \$5.46 million of the amount PEF charged to the storm reserve should be disallowed.

ISSUE 3: Has PEF properly treated payroll expense associated with managerial employees when determining the costs that should be charged to the storm reserve? If not, what adjustments should be made?

OPC: No. No part of the payroll associated with exempt management employees should be charged to the storm reserve. The Commission should remove \$6.40 million from the amount PEF seeks to recover from customers.

ISSUE 4: At what point in time should PEF stop charging costs related to the 2004 storm season to the storm damage reserve?

OPC: PEF should stop charging costs related to the 2004 storm season to the storm damage reserve when foreign utilities have left, PEF employees have returned to regular hours and the work is being performed by PEF employees and the contractors whom PEF engages on a routine, ongoing basis.

ISSUE 5: Has PEF charged to the storm reserve appropriate amounts relating to employee training for storm restoration work? If not, what adjustments should be made?

OPC: No. Employee training, including that related to storm restoration work, is a basic function that PEF must provide. Related expenses are not extraordinary, and should not be charged to the storm damage reserve.

ISSUE 6: Has PEF properly quantified the costs of tree trimming that should be charged to the storm reserve? If not, what adjustments should be made?

OPC: No. PEF should be allowed to charge only the increment above its normal, budgeted levels. PEF’s variance between budgeted amounts and actual expenses during the period of restoration was a positive \$3.9 million, meaning it charged a

portion of the normal amount to the storm reserve. The Commission should disallow this amount.

ISSUE 7: Has PEF properly quantified the costs of company-owned fleet vehicles that should be charged to the storm reserve? If not, what adjustments should be made?

OPC: No. PEF should charge only extraordinary expenses, incremental to normal levels it would have incurred in any event, to the storm reserve. PEF has charged vehicle depreciation expense and base levels of vehicle operating expense to the storm damage reserve. These expenses are covered by base revenues that customers provide. To include them in the storm reserve would require customers to pay the same costs twice. The Commission should limit recovery of vehicle-related costs to the incremental fuel costs associated with extra shifts. It should adjust the amount that PEF seeks to recover by \$3.04 million.

ISSUE 8: Has PEF properly determined the costs of call center activities that should be charged to the storm damage reserve? If not, what adjustments should be made?

OPC: PEF should charge only extraordinary levels of call center expenses, incremental to normal levels, to the storm damage reserve account. OPC has not formulated a numerical adjustment at this time.

ISSUE 9: Has PEF appropriately charged to the storm reserve any amounts related to advertising expense or public relations expense for the storms? If not, what adjustments should be made?

OPC: PEF has a basic obligation as a public utility to keep its customers informed, particularly during emergencies. Customers should not be required to pay a surcharge to receive the benefits of this basic function. All advertising and/or public relations expense that PEF charged to the storm reserve, amounting to \$2,428,891, should be disallowed.

ISSUE 10: Has uncollectible expense been appropriately charged to the storm damage reserve? If not, what adjustments should be made?

OPC: PEF should not charge uncollectible expense to the storm damage reserve. The use of the reserve should be limited to the extraordinary costs of repairing PEF's system and restoring service. Uncollectible expense does not fall into this category. In addition, the determination as to whether uncollectible expense was attributable to the storms is speculative. The Commission should disallow \$2.25 million of the amount PEF seeks to recover for uncollectible expense.

ISSUE 11: Should PEF be required to offset its storm damage recovery claim by revenues it has received from other utilities for providing assistance in their storm restoration activities? If so, what amount should be offset?

OPC: No position.

ISSUE 12: Has PEF appropriately removed from the costs it seeks in its petition all costs that should be booked as capital costs associated with its retirement (including cost of removal) and replacement of plant items affected by the 2004 storms? If not, what adjustments should be made? (This was identified as a possible stipulation.)

OPC: PEF should book to plant in service the normal cost of new plant additions, including average cost of materials and labor, and remove such costs from its storm accounting. It should follow the same procedure with cost of removal expense by charging normal amounts to the cost of removal reserve, where the cost of removal expense that it has been collecting from customers over time now resides. Pending the results of discovery, OPC's position is that PEF has failed to remove approximately \$10 million of cost of removal expenses from its storm accounts. With respect to new plant additions, OPC is evaluating recent discovery responses and has not finalized its position.

ISSUE 13: Has PEF appropriately quantified the costs of materials and supplies used during storm restoration that should be charged to the storm reserve? If not, what adjustments should be made? (This was identified as a possible stipulation.)

OPC: PEF should exclude normal levels of costs of materials and supplies from the costs charged to the storm damage reserve.

ISSUE 14: Taking into account any adjustments identified in the preceding issues, what is the appropriate amount of storm-related costs to be charged against the storm damage reserve?

OPC: OPC's position is that the amount sought by PEF should be reduced by a minimum of \$33.078 million as a result of the resolution of issues 1 - 14. OPC may modify this position once discovery has been completed.

ISSUE 15: Does the stipulation of the parties that the Commission approved in Order No. PSC-02-0655-AS-EI affect the amount or timing of storm-related costs that PEF can collect from customers? If so, what is the impact? (Legal issue)

OPC: Yes. The stipulation requires that PEF defray storm-related costs from earnings to the point that its return on equity has fallen to 10% before it can seek to recover the balance of costs from customers through an increase of rates. Based on available data for 2004, the amount is approximately \$108 million (retail).

ISSUE 16: In the event that the Commission determines the stipulation approved in Order No. PSC-02-0655-AS-EI does not affect the amount of costs that PEF can recover from ratepayers, should the responsibility for those costs be apportioned between PEF and retail ratepayers? If so, how should the costs be apportioned? (Contingent issue)

OPC: Yes. Investors are paid to accept risks, including the potential for storm damage. It would be inequitable in the extreme to require customers to provide a return that is commensurate with the risks investors bear over time, then insulate investors from that risk by placing 100% of the risk on customers. Under current economic conditions, 10% ROE is more than adequate to provide investors with a reasonable return on their investment. Therefore, even if the Commission were to determine that the 2002 stipulation does not require this result, the 10% ROE criterion is a reasonable basis on which to apportion the storm-related costs

ISSUE 17: What is the appropriate amount of storm-related costs to be recovered from the customers? (Fallout issue)

OPC: The amount sought by PEF should be reduced by a minimum of \$141 million. PEF may modify this position once discovery has been completed and the results evaluated.

ISSUE 18: If recovery is allowed, what is the appropriate accounting treatment for the unamortized balance of the storm-related costs subject to future recovery?

OPC: No position at this time.

ISSUE 19: Should PEF be authorized to accrue and collect interest on the amount of storm-related costs permitted to be recovered from customers? If so, how should it be calculated? (This was identified as a possible stipulation as to the commercial paper rate.)

OPC: OPC does not object to the application of an interest factor equal to the commercial paper rate.

ISSUE 20: What mechanism should be used to collect the amount of the storm-related costs authorized for recovery?

OPC: Any amount authorized for recovery should be collected by means of a temporary surcharge to base rates.

ISSUE 21: If the Commission approves recovery of any storm-related costs, how should they be allocated to the rate classes? (This was identified as a stipulation: The methodology for allocation of storm recovery costs should be that which is proposed in PEF's petition.)

OPC: No position.

ISSUE 22: What is the proper rate design to be used for PEF to recovery storm-related costs?

OPC: No position.

ISSUE 23: What is the appropriate recovery period?

OPC: Two years.

ISSUE 24: If the Commission approves a mechanism for the recovery of storm-related costs from the ratepayers, on what date should it become effective?

OPC: The approved mechanism should become effective as to meter readings taken 30 days after the Commission's vote.

ISSUE 25: Should PEF be required to file tariffs reflecting the establishment of any Commission-approved mechanism for the recovery of storm-related costs from the ratepayers?

OPC: Yes.

ISSUE 26: Should the docket be closed?

OPC: No. The docket should remain open to enable parties and the Commission to ensure that PEF collects the appropriate amount

(7) STIPULATED ISSUES:

The Citizens are not aware of any stipulated issues at this time.

(8) PENDING MOTIONS

The Citizens are not aware of any pending motions at this time.

(9) PENDING CONFIDENTIALITY CLAIMS OR REQUESTS

The Citizens are not aware of any confidentiality issues at this time.

(10) COMPLIANCE WITH ORDER NO. PSC-04-1151-PCO-EI

The Citizens are not aware of any requirements of Order No. PSC-04-1151-PCO-EI with which parties cannot comply.

K. OBJECTIONS TO WITNESS'S QUALIFICATIONS

To the extent that opinion testimony has been offered in prefiled testimony, OPC makes no objection to the qualifications of the witness to render that opinion.

Respectfully submitted,

HAROLD MCLEAN
PUBLIC COUNSEL


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Attorneys for the Citizens of the
State of Florida

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true copy of the foregoing Prehearing Statement has been furnished to the following individuals as indicated in the service list on this 1st day of March, 2005.

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