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To: Filings@psc.state.fl.us
Cc: tperry@mac-law.com
Subject: Docket No. 041272-EI
Attachments: Prehearing Statement - 3-1-05.doc; Prehearing Statement - 3-1-05.pdf

1. Timothy J. Perry, Esq., McWhirter Reeves, 117 S. Gadsden Street, Tallahassee, FL 32301, (850) 222-2525, tperry@mac-law.com is responsible for this electronic filing;
2. The filing is to be made in Docket No. 041272-EI, *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.*;
3. The filing is made on behalf of the Florida Industrial Power Users Group;
4. The total number of pages is 9; and
5. Attached to this e-mail in Adobe and Word* format is the Florida Industrial Power Users Group's Prehearing Statement.

* The document is provided here in Word format in lieu of providing the Commission with a disk containing the document in Word format. If you have any questions, please feel free to contact me.

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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

**FLORIDA INDUSTRIAL POWER USERS GROUP'S
PREHEARING STATEMENT**

The Florida Industrial Power Users Group (FIPUG), pursuant to Order No. PSC-04-1151-PCO-EI, hereby files its Prehearing Statement.

A. APPEARANCES:

JOHN W. MCWHIRTER, JR., McWhirter, Reeves, Davidson & Arnold, P.A., 400 North Tampa Street, Suite 2450, Tampa, Florida 33601-3350, and
TIMOTHY J. PERRY, McWhirter, Reeves, Davidson & Arnold, P.A., 117 South Gadsden Street, Tallahassee, Florida 32301.

On Behalf of the Florida Industrial Power Users Group.

B. WITNESSES:

<u>Witness</u>	<u>Proffered by</u>	<u>Issues</u>
Sheree L. Brown	FIPUG	1, 15, 16, 17, 19, 21, 22 and 23

C. EXHIBITS:

<u>Exhibit</u>	<u>Witness</u>	<u>Description</u>
Exhibit No. __ (SLB-1)	Sheree L. Brown	Recalculation of PEF's Cost of Capital to Exclude the Storm Damage Account and Associated Deferred Income Taxes
Exhibit No. __ (SLB-2)	Sheree L. Brown	Recalculation of Interest Provision on Deferred Costs to Recognize Deferred Income Tax

D. STATEMENT OF BASIC POSITION:

Progress' Storm Cost Recovery Clause request is an attempt to evade its obligations under the Stipulation and Settlement of the 2002 rate case approved by Order No. PSC-02-0655-AS-EI, issued May 14, 2002, in Dockets Nos. 000824-EI and 020001-EI. Under the Stipulation and Settlement, Progress would be limited to requesting a base rate increase only if its after tax return on equity fell below 10%. By requesting full recovery through a guaranteed cost recovery clause mechanism, Progress is seeking to evade any responsibility for costs that it otherwise would have to bear under the Stipulation and Settlement by attempting to place those expenses outside of base rates. The effect of Progress's request is to shift 100% of the storm loss risk to its customers while preserving a 2004 after tax return on equity in the range of 14%—more than 200 basis points over the return allowed in the last general rate case.

PEF's accounting "games the system" in other ways. It reclassifies normal O&M expenses during the three-month storm period into storm damage activities that it proposes to collect through a recovery clause. With this accounting manipulation, base rates paid by customers to cover normal O&M are used to increase utility profits. It then increases profits more by taking an income tax deduction for storm damage. After these calculations are in place, it seeks to create a clause to cover all storm-related expenses that were not covered by the storm damage reserve funded by PEF's customers. PEF's proposal seeks to hold PEF harmless from any damages related to the storms, while increasing costs to residents and businesses in PEF's service territory that have already absorbed storm damage costs of their own. Its proposal seeks 100% cost recovery from consumers, with no contribution from PEF, while the company benefits from increased profits. Finally, PEF's interest calculations on the storm damage recovery clause do not provide an offset for the income tax benefits that PEF received for expensing the storm damage costs for tax purposes.

Although storm-related expenses would typically be recovered through changes in base rates, such base rate changes are limited due to the Stipulation and Settlement. However, FIPUG recognizes that the impact on PEF and its ratepayers is dependent upon the amortization period ordered by the Commission. FIPUG accedes to the establishment of a two-year Storm Cost Recovery Clause as a mechanism for PEF to recover its fair share of storm-related expenses, only. However, such a clause must balance the interests of PEF and its ratepayers, while upholding a portion of PEF's obligations under the Stipulation and Settlement; and should not be a tool for PEF to recover 100% of storm-related expenses from its ratepayers. In establishing such a Storm Cost Recovery Clause, PEF should be required to limit the storm damage costs to those costs that would have otherwise caused PEF's earnings to fall below 10% in 2004. Such a clause should cease to exist as soon as the storm damage balance is recovered.

FIPUG's proposed methodology would eliminate any cost-shifting and make-up for revenues received by PEF for assisting other utilities in storm damage recovery efforts, yet protect PEF by limiting its exposure to the 10% return on equity floor established in the Stipulation and Settlement. PEF would expense \$142.7 million in 2004, reducing the amount to

be recovered from ratepayers to \$121.8 million. Such a decision would result in a fair and equitable resolution of the issues and provide PEF with immediate recovery of appropriate costs. In addition, PEF's recovery would be limited to an amount that provides PEF with a return on equity of 10% for 2004, in accordance with the level of financial risk PEF assumed in the Settlement, while allowing PEF to earn in excess of this floor for 2005. Finally, it prevents PEF from manipulating the regulatory system by eliminating the "double dipping" that would occur if PEF were allowed to recover costs through a recovery clause while recovering the same costs through base rates

If the Commission chooses not to limit the storm damage costs to those costs that would have otherwise caused PEF's earnings to fall below 10% in 2004, then the Commission should, at a minimum:

- 1) Limit PEF's storm damage costs to those costs that are incremental to its normal operating and maintenance expenses;
- 2) Take into account revenues PEF received for assisting other utilities with their storm damages; and
- 3) When calculating interest on the storm damage recovery clause, should provide an offset for the income tax benefits that PEF received for expensing the storm damage costs for tax purposes.

E. STATEMENT OF 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?

FIPUG: No position at this time.

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?

FIPUG: PEF's storm-related costs should be limited to those that are incremental to the level of normal operating and maintenance expenses that would have otherwise been incurred.

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?

FIPUG: PEF's storm-related costs should be limited to those that are incremental to the level of normal operating and maintenance expenses that would have otherwise been incurred.

- ISSUE 4:** At what point in time should PEF stop charging costs related to the 2004 storm season to the storm damage reserve?
- FIPUG:** PEF should stop charging such costs to the storm damage reserve effective January 1, 2005, or at the conclusion of storm restoration activities, whichever is sooner.
- 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?
- FIPUG:** PEF's storm-related costs should be limited to those that are incremental to the level of normal operating and maintenance expenses that would have otherwise been incurred.
- 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?
- FIPUG:** PEF's storm-related costs should be limited to those that are incremental to the level of normal operating and maintenance expenses that would have otherwise been incurred.
- 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?
- FIPUG:** PEF's storm-related costs should be limited to those that are incremental to the level of normal operating and maintenance expenses that would have otherwise been incurred.
- 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?
- FIPUG:** PEF's storm-related costs should be limited to those that are incremental to the level of normal operating and maintenance expenses that would have otherwise been incurred.
- 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?
- FIPUG:** PEF's storm-related costs should be limited to those that are incremental to the level of normal operating and maintenance expenses that would have otherwise been incurred.
- ISSUE 10:** Has uncollectible expense been appropriately charged to the storm damage reserve? If not, what adjustments should be made?

FIPUG: No position at this time.

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?

FIPUG: PEF should be required to offset its storm-related costs with those revenues that it received for recovery of costs associated with the level of normal operating and maintenance expenses that would have otherwise been incurred by PEF since the effective date of the Stipulation and Settlement. In the future, PEF should credit such revenues to the storm damage reserve.

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?

FIPUG: PEF's storm-related costs should be limited to those that are incremental to the level of normal operating and maintenance expenses that would have otherwise been incurred.

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?

FIPUG: PEF's storm-related costs should be limited to those that are incremental to the level of normal operating and maintenance expenses that would have otherwise been incurred.

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?

FIPUG: The appropriate amount of storm-related costs to be charged against the storm damage reserve should reflect only those costs that are incremental to the level of normal operating and maintenance expenses that would have otherwise been incurred.

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)

FIPUG: Yes. If such costs were expensed in the year of occurrence, PEF's earnings would have fallen below 10% and PEF would have been allowed to request a prospective increase in base rates. Given that the costs are non-recurring, the

impact would have been to require PEF to absorb 100% of the storm damage costs. If the costs were deferred and amortized, a large portion of the costs would have been borne by PEF during 2004 and 2005, while base rates under the Stipulation and Settlement were still in effect. In developing a cost recovery mechanism, the Commission should recognize PEF's obligations under the Stipulation and Settlement, as well as a fair and equitable balance of PEF and ratepayer interests. This can be accomplished by requiring PEF to expense that portion of the storm damage costs that would reduce its after-tax return on equity for 2004 to 10%. The remainder could be recovered through a storm damage recovery clause with interest on the unamortized net-of-tax balance.

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)

FIPUG: Yes. As discussed in the testimony of Sheree L. Brown, ordering PEF to immediately expense \$142.7 million, and limiting the amount to be recovered from customers to \$121.8 million, will result in a fair and equitable resolution of the issues.

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

FIPUG: \$121.8 million total system, with \$115.9 million recoverable from retail ratepayers.

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?

FIPUG: The storm damage account should be credited each month with the actual costs recovered from ratepayers.

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?

FIPUG: Yes. PEF should charge interest at the commercial paper rate. Interest should be charged on the outstanding storm damage account minus the income tax savings realized by PEF.

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

FIPUG: Such costs should be collected as a separately stated charge on customer's bills for the period of recovery.

ISSUE 21: If the Commission approves recovery of any storm-related costs, how should they be allocated to the rate classes?

FIPUG: The methodology for allocation of storm recovery costs should be that which is proposed in PEF's petition.

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

FIPUG: For the purposes of GSD, CS, IS rates, such costs should be recovered through a demand charge consistent with the testimony and exhibits of Sherree L. Brown.

ISSUE 23: What is the appropriate recovery period?

FIPUG: 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?

FIPUG: PEF should be allowed to begin recovering such costs from the final date of the Commission's order in this docket, with recovery beginning on the first billing cycle of the next month.

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?

FIPUG: Yes.

ISSUE 26: Should the docket be closed?

FIPUG: No position at this time.

F. STIPULATED ISSUES:

None at this time.

G. PENDING MOTIONS:

FIPUG has no pending motions.

H. OTHER MATTERS:

None at this time.

s/ Timothy J. Perry

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Florida Industrial Power Users Group's Prehearing Statement has been furnished by e-mail and U.S. Mail this 1st day of March 2005, to the following:

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s/ Timothy J. Perry _
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