

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Petition for Approval of Storm)
Cost Recovery Clause for Recovery of)
Extraordinary Expenditures Related to) DOCKET NO. 041272-EI
Hurricanes Charley, Frances, Jeanne,) FILED: MARCH 17, 2005
and Ivan, by Progress Energy Florida, Inc.)

THE FLORIDA RETAIL FEDERATION'S
PREHEARING STATEMENT

The Florida Retail Federation ("FRF"), pursuant to Order No. PSC-04-1151-PCO-EI, hereby files its Prehearing Statement.

A. APPEARANCES:

ROBERT SCHEFFEL WRIGHT, Landers & Parsons, P.A., 310 West College Avenue, Tallahassee, Florida 32301, and

JOHN T. LAVIA, III, Landers & Parsons, P.A., 310 West College Avenue, Tallahassee, Florida 32301.

On Behalf of the Florida Retail Federation.

B. WITNESSES: None.

C. EXHIBITS: The Florida Retail Federation does not intend to present any exhibits through its own witnesses, but reserves its rights to introduce appropriate exhibits through the witnesses of the other parties to this proceeding.

D. STATEMENT OF BASIC POSITION:

Generally, at this time, the Florida Retail Federation agrees with the basic position and the issue-specific positions taken by the Florida Industrial Power Users Group ("FIPUG") in FIPUG's prehearing statement. The FRF, however, reserves its rights to evaluate, pursue, and explore all issues via the evidence of record in this case, and accordingly, the FRF may take final, post-hearing positions that are different from those of FIPUG. The FRF here endeavors to state its positions as

definitively as possible, subject to the natural and obvious recognition that those positions may change as the result of evidence adduced at hearing. Thus, the FRF offers the following basic statement of its position in this docket.

Progress's 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 rate of return on equity were to fall 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, and more than 400 basis points above the minimum rate of return threshold that PEF itself agreed to in the Stipulation and Settlement that resolved its last 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. PEF then increases its 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 that are so high as to render PEF's rates, considered in their entirety and totality, unfair, unjust, and unreasonable. 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, and have historically been, recovered through changes in base rates, such base rate changes are limited due to the Stipulation and Settlement. In substance, the FRF would agree that PEF has the

right to seek base rate relief to get its base rates to a level that would provide PEF with the opportunity to earn a rate of return on equity of 10.0%. Although PEF has not asked for this relief, as it should have, the FRF would agree to treating PEF's petition for its proposed Storm Charges as requesting such relief, and the FRF would agree to the Commission handling the issues in this docket so as to address that ultimate issue, namely:

What, if any, rate relief does PEF need to enable it to have an appropriate opportunity to earn a rate of return on equity of 10.0% for 2004 and 2005?

Thus, in establishing such a Storm Cost Recovery Clause, PEF should be required to limit the recoverable 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.

This proposed methodology, which was offered by FIPUG, 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. Preliminary estimates offered by FIPUG, which the FRF intends to explore more fully before and at hearing, would require PEF to 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, this treatment will properly and lawfully prevent 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, 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:

As stated at the outset of its Statement of Basic Position above, at this time, the Florida Retail Federation generally agrees with the issue-specific positions taken by FIPUG in FIPUG's prehearing statement. The FRF, however, reserves its rights to evaluate, pursue, and explore all issues via the evidence of record in this case, and accordingly, the FRF may take final, post-hearing positions that are different from those stated below. The FRF here endeavors to state its positions as definitively as possible, subject to the natural and obvious recognition that those positions may change as the result of evidence adduced at hearing.

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?

FRF: 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?

FRF: PEF's claimed storm-related costs, including non-management employee labor payroll expense, 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?

FRF: PEF's claimed storm-related costs, including payroll expense associated with managerial employees, 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?

FRF: 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?

FRF: PEF's claimed 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. Pending review of the evidence of record on this issue, the FRF takes no position at this time regarding employee training expenses or related adjustments to PEF's allowable storm-related costs, if any.

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?

FRF: PEF's claimed 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. Pending review of the evidence of record on this issue, the FRF takes no position at this time regarding tree-trimming expenses or related adjustments to PEF's allowable storm-related costs, if any.

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?

FRF: PEF's claimed 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. Pending review of the evidence of record on this issue, the FRF takes no position at this time regarding costs associated with company-owned fleet vehicles or related adjustments to PEF's allowable storm-related costs, if any.

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?

FRF: PEF's claimed 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. Pending review of the evidence of record on this issue, the FRF takes no position at this time regarding call center costs or related adjustments to PEF's allowable storm-related costs, if any.

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?

FRF: PEF's claimed 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. Pending review of the evidence of record on this issue, the FRF takes no position at this time regarding advertising or public relations costs or related adjustments to PEF's allowable storm-related costs, if any.

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

FRF: No position at this time, pending further review of the issue and of the evidence of record produced at hearing.

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?

FRF: 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?

FRF: PEF's claimed storm-related costs should be limited to those that are incremental to the level of normal expenses that would have otherwise been incurred. Pending review of the evidence of record on this issue, the FRF takes no position at this time regarding costs associated with capital costs, removals, and retirements of plant items or related adjustments to PEF's allowable storm-related costs, if any.

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?

FRF: PEF's claimed 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. Pending review of the evidence of record on this issue, the FRF takes no position at this time regarding the costs of materials and supplies used during storm restoration or related adjustments to PEF's allowable storm-related costs, if any.

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?

FRF: PEF's claimed storm-related costs to be charged against the storm damage reserve should be limited to those that are incremental to the level of normal operating and maintenance expenses, and incremental to other relevant costs that would have otherwise been incurred. Pending review of the evidence of record on this issue, the FRF takes no position at this time the costs that may appropriately be charged against the storm damage reserve.

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)

FRF: 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 must 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 (and 2005, as applicable) to 10%. The remainder, if any, could be recovered through a storm damage recovery clause with interest on the unamortized net-of-all-tax-effects 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)

FRF: Yes. Tentatively, the FRF agrees with FIPUG that 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. However, the FRF reserves its rights to modify its position on this issue (and all other issues) based on the evidence introduced into the hearing record of this case.

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

FRF: Tentatively, the FRF believes that the maximum amount of storm-related costs that PEF might be allowed to recover from its customers is \$121.8 million total system, with \$115.9 million recoverable from retail ratepayers. Again, the FRF reserves its rights to modify its position on this issue (and all other issues) based on the evidence introduced into the hearing record of this case.

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?

FRF: 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?

FRF: Yes, if any. 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?

FRF: Such costs should be collected as a separately stated charge on customer's bills for the period of recovery. In taking this position, the FRF does not agree that, as a general matter or principle, a surcharge mechanism is appropriate in this or any other case. The FRF is agreeable to this mode of cost recovery, if any recovery is allowed, because in substance it will achieve the results that PEF would be entitled to under the Stipulation and Settlement.

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

FRF: 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?

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

ISSUE 23: What is the appropriate recovery period?

FRF: 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?

FRF: 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?

FRF: Yes.

ISSUE 26: Should the docket be closed?

FRF: No position at this time.

F. STIPULATED ISSUES:

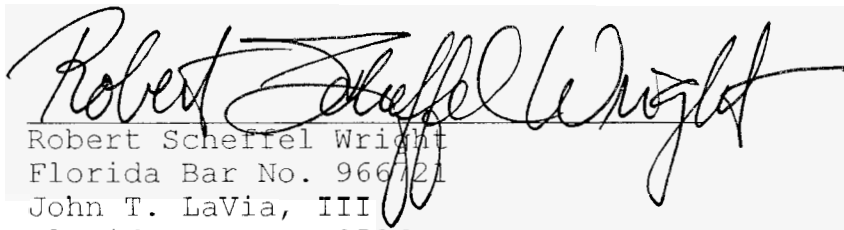
None at this time.

G. PENDING MOTIONS:

Simultaneously with the filing of its prehearing statement, the FRF has filed a petition to intervene, which is presently pending.

H. OTHER MATTERS:

None at this time.



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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been served by U.S. Mail, hand delivery (*) or facsimile and U.S. Mail (**) on this 17th day of March, 2005, on the following:

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