

ORIGINAL

Matilda Sanders

From: Mike Twomey [miketwomey@talstar.com]
Sent: Friday, March 25, 2005 1:36 PM
To: Tim Perry
Cc: Filings@psc.state.fl.us; JWM -- John McWhirter; Joe McGlothlin; Patty Christensen; Jennifer Brubaker; Jennifer Rodan; James A. McGee; Glenn, Alex; Gary L. Sasso; John T. Burnett; Walls, J. Michael; Scheff Wright (E-mail)
Subject: Re: Docket No. 041272-EI - AARP Petition to Intervene
Attachments: AARP Petition to Intervene in Progress Storm case March 25, 2005.rtf

1. Michael B. Twomey, Post Office Box 5256, Tallahassee, Florida 32314-5256, (850) 421-9530, miketwomey@talstar.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 AARP;

4. The total number of pages is 5; and

5. Attached to this email in Word format is AARP's Petition to Intervene.

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 Post Office Box 5256
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3/25/2005

ORIGINAL

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 25, 2005

AARP PETITION TO INTERVENE

Pursuant to Sections 120.569 and 120.57(1), Florida Statutes and Rules 25-22.039, and 28-106.205, Florida Administrative Code, the AARP, through its undersigned attorney, files its Petition to Intervene, and in support thereof, states as follows:

1. The name and address of the affected agency is:

Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850

2. The name and address of the petitioner is:

AARP
200 West College Street
Tallahassee, Florida 32301

3. All pleadings, motions, orders and other documents directed to the petitioner

should be served on:

Michael B. Twomey
Post Office Box 5256
Tallahassee, Florida 32314-5256
Phone: (850) 421-9530
FAX: (850) 421-8543
Email: miketwomey@talstar.com

4. Progress Energy Florida, Inc. ("PEF") is a regulated electric utility serving approximately 1.6 million retail customers throughout portions of the State of Florida.

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FPSC-COMMISSION CLERK

5. AARP is a nonprofit membership organization dedicated to addressing the needs and interests of persons 50 and older. AARP has staffed offices in all 50 states, the District of Columbia, Puerto Rico and the U.S. Virgin Islands. AARP represents more than 35 million members in total, approximately 2.7 million of whom reside in the State of Florida. AARP's Florida members reside throughout the state and a significant number of them are retail residential customers of PEF.

AARP Florida Members' Substantial Interests Affected

6. As stated above, AARP has approximately 2.7 million members in the State of Florida, a significant number of whom reside in PEF's service territory and take their electric service from the utility. Therefore, many of AARP's members will be substantially affected by any action the Commission takes in this docket, which will necessarily include retail rate increases if the utility's requested relief is granted.

7. **Statement of Affected Interests**

The Commission will decide in this docket whether to approve PEF's request to implement a "Storm Cost Recovery Clause" to allow it to recover \$251.9 million in storm-related costs. Furthermore, the Commission must decide whether PEF's request violates the Stipulation and Settlement Agreement entered into in PEF's last rate case, which was approved by, and incorporated into, Commission Order No. PSC-02-0655-AS-EI (the "Rate Case Order"). It is AARP's position that the Rate Case Order, at page 15, prohibits PEF from petitioning for an increase in its base rates and charges that would take effect prior to December 31, 2005. PEF's seeks to circumvent the Rate Case Order by requesting the creation of a guaranteed cost recovery clause for reimbursement of storm-related costs that are base rate items.

8. AARP's members taking retail electric service from PEF have interests of the type this proceeding is designed to protect. See Agrico Chemical Company v. Department of Environmental Regulation, 406 So.2d 478 (Fla. 2nd DCA 1981). The purpose of the proceeding is to evaluate PEF's request, to review the nature of its costs and expenditures to determine if any such costs are appropriate for recovery, to review the manner in which PEF requests to recover such costs, and to review whether PEF's request violates the Rate Case Order. These issues will affect AARP's PEF customer members' substantial interests by potentially increasing their costs of electricity, which necessarily will reduce their monies available for other purposes.

9. Disputed Issues of Material Fact

As a party seeking intervention at this point in the hearing process, AARP takes the case as it finds it and agrees that the disputed issues of material fact are those set forth in the Prehearing Order issued in this docket.

10. Disputed Legal Issues

As a party seeking intervention at this point in the hearing process, AARP takes the case as it finds it and agrees that the disputed legal issues are those set forth in the Prehearing Order issued in this docket.

11. Statement of Ultimate Facts Alleged

PEF is attempting to circumvent the Rate Case Order and thereby to shelter excessive earnings for the benefit of its shareholders and to the detriment of its retail customers by means of the storm surcharges sought in this docket. PEF should be required to charge the total of its reasonable and prudent 2004 storm recovery expenses to its storm fund balance and then amortize the balance over five years. It could then address an increase in its accrual for the storm

damage reserve, as well as other related relief, in its base rate case, which presumably will be filed shortly. In the event PEF is allowed in this docket to surcharge its customers for 2004 storm damage expenses, then it should be allowed to recover no more than \$121.8 million from its customers (including a maximum of \$115.9 million from its retail customers).

WHEREFORE, AARP requests that this Commission grant it intervenor status in this docket as a full party on behalf of the significant number of its approximately 2.7 million Florida members taking retail electric service from Progress Energy Florida, Inc.

Respectfully submitted,

/s/ Michael B. Twomey_____

Michael B. Twomey

Attorney for

AARP

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Tallahassee, Florida 32314-5256

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of this petition has been served by

U.S. Mail and electronic mail this 25th day of March, 2005 on the following:

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/s/ Michael B. Twomey
Attorney