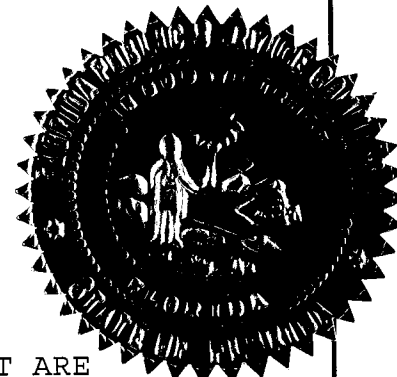


BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

DOCKET NO. 050078-EI

In the Matter of

PETITION FOR RATE INCREASE BY
PROGRESS ENERGY FLORIDA, INC.



ELECTRONIC VERSIONS OF THIS TRANSCRIPT ARE
A CONVENIENCE COPY ONLY AND ARE NOT
THE OFFICIAL TRANSCRIPT OF THE HEARING,
THE .PDF VERSION INCLUDES PREFILED TESTIMONY.

VOLUME 1

Page 1 through 16

PROCEEDINGS: HEARING

BEFORE: CHAIRMAN BRAULIO L. BAEZ
COMMISSIONER J. TERRY DEASON
COMMISSIONER RUDOLPH "RUDY" BRADLEY
COMMISSIONER LISA POLAK EDGAR

DATE: Wednesday, September 7, 2005

TIME: Commenced at 9:30 a.m.

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

REPORTED BY: JANE FAUROT, RPR
Official FPSC Hearings Reporter
(850) 413-6732

DOCUMENT NUMBER: DATE

08642 SEP 12 12

FPSC-COMMISSION CLERK

1 APPEARANCES:

2 JAMES WALLS, ESQUIRE, JOHN BURNETT, ESQUIRE, and
3 DIANNE TRIPLETT, ESQUIRE, Carlton Fields Law Firm, P.O. Box
4 3239, Tampa, Florida 33601-3239, appearing on behalf of
5 Progress Energy Florida, Inc.

6 R. ALEXANDER GLENN, ESQUIRE, Progress Energy Service
7 Company, LLC, 100 Central Avenue, Suite 1D, St. Petersburg,
8 Florida 33701, appearing on behalf of Progress Energy Florida,
9 Inc.

10 ALAN R. JENKINS, ESQUIRE, McKenna Law Firm, 303
11 Peachtree Street, N.E., Suite 5300, Atlanta, Georgia 30308,
12 appearing on behalf of Commercial Group.

13 JOHN W. MCWHIRTER, JR., ESQUIRE, and TIMOTHY J.
14 PERRY, ESQUIRE, McWhirter Reeves, 400 North Tampa Street, Suite
15 2450, Tampa, Florida 33601-3350, appearing on behalf of Florida
16 Industrial Power Users Group.

17 MIKE B. TWOMEY, ESQUIRE, P. O. Box 5256, Tallahassee,
18 Florida 32314-5256, appearing on behalf of AARP, Buddy L.
19 Hansen/Sugarmill Woods Civic Association, Inc..

20 SCHEFFEL WRIGHT, ESQUIRE, Landers Law Firm, P.O. Box
21 271, Tallahassee, Florida 32302, appearing on behalf of Florida
22 Retail Federation.

23

24

25

1 APPEARANCES CONTINUED:

2 HAROLD MCLEAN, PUBLIC COUNSEL, JOSEPH MCGLOTHLIN,
3 ESQUIRE, and PATRICIA CHRISTENSEN, ESQUIRE, Office of Public
4 Counsel, c/o The Florida Legislature, 111 West Madison St.,
5 Room 812, Tallahassee, Florida 32399-1400, appearing on behalf
6 of the Citizens of the State of Florida.

7 CHRISTOPHER M. KISE, SOLICITOR GENERAL, and JACK
8 SHREVE, ESQUIRE, Office of the Attorney General, The
9 Capitol-PL01, Tallahassee, Florida 32399-1050, appearing on
10 behalf of the Office of the Attorney General.

11 JAMES BUSHEE, ESQUIRE, Sutherland Asbill Law Firm,
12 1275 Pennsylvania Ave. N.W., Washington, DC 20004-2415,
13 appearing on behalf of White Springs Agricultural Chemicals,
14 Inc.

15 JENNIFER BRUBAKER, ESQUIRE, FELICIA BANKS, ESQUIRE,
16 JENNIFER RODAN, ESQUIRE, and MARLENE STERN, ESQUIRE, FPSC
17 General Counsel's Office, 2540 Shumard Oak Boulevard,
18 Tallahassee, Florida 32399-0850, appearing on behalf of the
19 Florida Public Service Commission Staff.

20

21

22

23

24

25

I N D E X

WITNESSES

NAME:

PAGE NO.

(No witnesses in this volume.)

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25

EXHIBITS

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

NUMBER:

ID.

ADMTD.

1 Comprehensive Exhibit List
2-221 (Description of exhibits contained
in Exhibit 1, Comprehensive
Exhibit List)
222 MFRs

9
9
9

9
9
9

P R O C E E D I N G S

1
2 CHAIRMAN BAEZ: At this point we will call the
3 technical hearing to order.

4 Counsel, will you read the notice.

5 MS. BRUBAKER: Pursuant to notice, this time and
6 place has been set for the purpose of conducting a technical
7 hearing in Docket 050078-EI. The purpose of the hearing is set
8 forth more fully in the notice.

9 Chairman, if I may ask, in order to allow staff
10 adequate facility to microphones, since I understand a lot
11 questions will be asked of staff, if we could set up as we did
12 similarly in the FPL hearing where staff has access to the bank
13 of microphones to my left, I suppose, and we will leave some
14 areas available for the parties to speak.

15 CHAIRMAN BAEZ: And what I want to do is let's go
16 through the steps of taking appearances of everyone.

17 MS. BRUBAKER: My apologies. Certainly.

18 CHAIRMAN BAEZ: Let's get the joint stipulation
19 motion before us properly with comments from the parties, and
20 then we are going to take two brief seconds because then we
21 will have moved on -- my understanding, we will have moved on
22 to another phase in our consideration, and that is when we can
23 get you all sitting down where you need to be in order to
24 answer questions from the staff. So at this point we will take
25 appearances, once again.

1 Mr. Glenn.

2 MR. GLENN: Alex Glenn on behalf of Progress Energy
3 Florida. And with me is Michael Walls, John Burnett, and
4 Dianne Triplett with the law firm of Carlton Fields.

5 MR. KISE: Christopher Kise, Solicitor General, on
6 behalf of Attorney General Charlie Crist.

7 MR. SHREVE: Jack Shreve on behalf of Attorney
8 General Charlie Crist.

9 MR. McLEAN: Harold McLean, Public Counsel, on behalf
10 of the Citizens of the State of Florida. With me this morning,
11 Joe McGlothlin and Patty Christensen.

12 MR. WRIGHT: Robert Scheffel Wright appearing on
13 behalf of the Florida Retail Federation.

14 MR. BUSHEE: James Bushee on behalf of White Springs.

15 MR. JENKINS: Alan Jenkins on behalf of the
16 Commercial Group.

17 MR. PERRY: Timothy Perry on behalf of the Florida
18 Industrial Power Users Group. And I would also like to enter
19 an appearance for John McWhirter.

20 MR. TWOMEY: Mike Twomey on behalf of AARP.

21 CHAIRMAN BAEZ: Does that form the balance of
22 intervenors and parties? Is there anyone else that needs to
23 enter an appearance?

24 Staff, go ahead.

25 MS. BRUBAKER: Jennifer Brubaker, Jennifer Rodan,

1 Felicia Banks, and Marlene Stern on behalf of the Commission.

2 CHAIRMAN BAEZ: Thank you.

3 Ms. Brubaker, do we have any preliminary matters at
4 this point?

5 MS. BRUBAKER: There is a preliminary matter with
6 regard to prefiled testimony and prefiled exhibits, testimony
7 and exhibits. There is a staff composite exhibit, and there
8 are MFRs. Similar to the FPL hearing that was held recently, I
9 would request that those items be identified for the record and
10 moved into the record provided, of course, there is no
11 objection. I would also point out the comprehensive exhibit
12 list that has been distributed to the parties prior and also
13 provided to the Commissioners.

14 My recommendation is that the exhibits listed there
15 be numbered as listed. And the MFRs are not explicitly
16 mentioned on this list, but they would follow the numbering of
17 the list would be my recommendation.

18 CHAIRMAN BAEZ: Very well. Is there any objection to
19 Staff Counsel's suggestion?

20 MR. GLENN: No objection.

21 CHAIRMAN BAEZ: Mr. Glenn, thank you. Then, without
22 objection, let the record show that the exhibit provided by
23 Staff titled "Comprehensive Exhibit List" will be numbered
24 Exhibit 1. Without objection, it will be moved into the
25 record. And as contained in Exhibit 1, all other stipulated

1 exhibits and also testimony exhibits contained therein numbered
2 sequentially 2 through 221 will also be admitted into the
3 record. And the exhibits comprising the minimum filing
4 requirements as provided by the petitioner will also similarly
5 be moved into the record without objection and numbered
6 sequentially thereafter.

7 (Exhibits 1 through 221 marked for identification and
8 admitted into the record.)

9 (Exhibit 222 marked for identification and admitted
10 into the record.)

11 MS. BRUBAKER: And, also, just for clarification, the
12 prefiled direct and rebuttal testimony of all parties and
13 staff.

14 CHAIRMAN BAEZ: Without objection, the prefiled and
15 direct testimony filed in the case will also be moved into the
16 record as though read. Does that take care of everything?

17 MS. BRUBAKER: It does.

18 CHAIRMAN BAEZ: Okay. And I will trust staff to
19 properly number the MFR exhibits sequentially as we have
20 instructed. Okay. Very well.

21 (REPORTER NOTE: For the convenience of the record,
22 the prefiled testimony was inserted after the statements of the
23 parties.)

24 CHAIRMAN BAEZ: Now, we can hear from the parties.
25 Mr. Glenn, would you like to --

1 MR. GLENN: Thank you, Mr. Chairman.

2 I wanted to first recognize all of the parties and
3 their efforts in coming to this settlement. It was, as I'm
4 sure you know, a lot of long hours. In particular, I would
5 like to thank the Attorney General, and Chris Kise and Jack
6 Shreve, in particular, for their yeoman work in really, as I'm
7 sure you're going to hear, herding cats. It was a long
8 drawn-out process, but one that I think ultimately reached a
9 conclusion that benefits all parties, the company as well as
10 our customers.

11 I also wanted to thank Mr. McLean. Harold McLean did
12 an outstanding job representing the Citizens of the State of
13 Florida and in getting this settlement to a reasonable
14 conclusion. And I also want to thank the other intervenors who
15 worked in such a professional manner throughout the process. I
16 think this is a good settlement, and we would ask that the
17 Commission approve it.

18 Thank you.

19 CHAIRMAN BAEZ: Mr. Glenn, thank you.

20 Mr. Kise.

21 MR. KISE: Mr. Chairman, I'm happy to be here and to
22 let you know that the cats have, in fact, been herded. And
23 we're very pleased with this agreement. On behalf of the
24 Attorney General, I really would like to thank Jack Shreve,
25 Harold McLean, Schef Wright, Jim Bushee, Alan Jenkins, John

1 McWhirter, even though he is not here, Tim Perry. It was a
2 difficult process and would not have been possible without the
3 cooperation of Vinnie Dolan and Paul Lewis and Alex Glenn at
4 Progress who were willing to work very long hours.

5 We are pleased to present this to you and request,
6 respectfully, that you approve this agreement, which we believe
7 is in the interest of the people of Florida.

8 CHAIRMAN BAEZ: Thank you, Mr. Kise.

9 Mr. Shreve, any words?

10 MR. SHREVE: Thank you, Mr. Chairman.

11 I would like to echo everything that Mr. Kise has
12 said and all of the parties. It was a tough negotiation, but I
13 think it has come out and will be a big benefit to the people
14 of the state of Florida.

15 In addition to thanking all the parties, I would like
16 to say that this could not have been possible without the case
17 that Harold McLean, the Office of the Public Counsel, put on.
18 It has been a pleasure.

19 Thank you.

20 Mr. McLean.

21 CHAIRMAN BAEZ: Thank you, Mr. Shreve.

22 Mr. McLean.

23 MR. McLEAN: Mr. Chairman, I would like to put a
24 salute to each name that has been mentioned, especially Charlie
25 Crist and his man, Chris Kise. There were many times when we

1 would have been dead in the water but for the personal skills,
2 charisma of our Solicitor General. And he kept the ball
3 rolling when it otherwise might have fallen in a hole, or
4 something like that. And thanks to the Florida Legislature for
5 giving me the resources to be able to put on a quality case
6 that gave strength to the intervenor's side, and eventually
7 lead to what I believe is a win/win situation.

8 Thank you, Mr. Chairman.

9 CHAIRMAN BAEZ: Thank you, Mr. McLean.

10 Mr. Wright.

11 MR. WRIGHT: Thank you, Mr. Chairman. Like everybody
12 else, I would urge you to approve this settlement. It fairly
13 balances the interest of the utility and the customers and it
14 is in the public interest. It's a good deal. I also would
15 like to especially thank the folks at Progress; Alex, Vinnie,
16 Mike Walls, the rest of the attorneys, and Javier Portuondo,
17 who probably worked as hard as anybody in this whole process.
18 And, likewise, the Attorney General, Attorney General Crist
19 himself for his personal involvement, and Chris Kise and Jack
20 Shreve. And as everybody else has said, without them the
21 wheels probably would have fallen off the train and things
22 would have gotten messed up.

23 Likewise, I would like to thank Harold and the
24 Florida Legislature, as he did, for the very excellent case
25 that he put together, without which I think our side would have

1 been hard pressed to get as good a settlement as we did, the
2 rest of the intervenors, and your Staff, and you all. Thank
3 you. Please approve the settlement.

4 CHAIRMAN BAEZ: Thank you, Mr. Wright.

5 Mr. Bushee.

6 MR. BUSHEE: Thank you, Mr. Chairman. I would also
7 echo the sentiments that you have already heard about the hard
8 work by all the parties. I would commend the Attorney
9 General's Office, Progress, as well as all of the intervenors.
10 There was a lot of hard work and professionalism that resulted
11 in what is a fair and reasonable settlement, and I urge the
12 Commission to approve it.

13 CHAIRMAN BAEZ: Thank you, sir.

14 Mr. Jenkins.

15 MR. JENKINS: The Commercial customers, like everyone
16 else, appreciate rate stability. It gives them an opportunity
17 to plan their operations and their budgets for years to come.
18 And that is an important fact in planning new buildings and
19 continuing to grow one of the faster growing segments of the
20 Florida economy, and we would urge your approval of the
21 settlement. Thank you.

22 CHAIRMAN BAEZ: Mr. Perry.

23 MR. PERRY: I would like to echo the comments of
24 those before me and recognize the hard work of both the company
25 and the intervenors in this case to work towards the settlement

1 which we think is a very fair and good one. We would ask that
2 you approve the settlement. Thank you.

3 CHAIRMAN BAEZ: Mr. Twomey.

4 MR. TWOMEY: Mr. Chairman, Commissioners, good
5 morning. The settlement wouldn't have been possible if the
6 intervenors had not prepared well for hearing, as is typically
7 the case in any negotiations. I think chief amongst the
8 intervenors, the Office of Public Counsel, Harold McLean and
9 his fine staff, deserve special note in terms of their
10 preparedness to go to hearing and push the company to settle.
11 As those have said, the Attorney General's office did yeomen's
12 work. We probably wouldn't have a settlement without their
13 participation and leadership. The company was reasonable, I
14 think, at every turn, and they deserve to be recognized as
15 well. As the others have said, the settlement, we believe, is
16 not only good for the customers, it's good for the utility as
17 well, and AARP would urge you to accept it.

18 CHAIRMAN BAEZ: Thank you. Someone was leaning
19 forward. Mr. Kise, you were?

20 MR. KISE: I didn't see Mr. Twomey down there, and I
21 didn't want my silence in thanking him to be taken as anything
22 other than a mistake on my part. I also would like to thank
23 Mr. Twomey because during the course of the negotiations there
24 were certain bouts of tenacity which really helped propel the
25 process forward. So I want to thank him, as well. I just

1 didn't see him down there.

2 CHAIRMAN BAEZ: Well, it is good you said that,
3 because here I was confirming all sorts of suspicions as to Mr.
4 Twomey's participation in this. But, nevermind.

5 MR. McLEAN: Mr. Chairman.

6 CHAIRMAN BAEZ: Mr. McLean.

7 MR. McLEAN: I, too, am extremely remiss in failing
8 to mention Joe McGlothlin, Patty Christensen, Earl Poucher, and
9 Tricia Merchant and our excellent support staff over at Public
10 Counsel who worked tirelessly for many hours, including
11 weekends, to put this case together, upon which the intervenors
12 were able to rely. So my special thanks goes out to my own
13 staff who worked somewhat out of the public eye and very
14 tirelessly. Thank you.

15 CHAIRMAN BAEZ: Thank you, Mr. McLean.

16 At this point what I would like to do is we are going
17 to go ahead and move in, I know that the Commissioners may have
18 some questions and certainly staff has prepared some
19 clarifications and some comments, along with a recommendation
20 to this. So I want to thank you all for your comments. Thank
21 you all for your hard work at this point. And if you would
22 kindly take a back seat now to the stars of the show for today,
23 anyway, and let's let our staff get in here so we can have some
24 questions answered. Thank you all, gentlemen.

25 (Off the record briefly.)

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

STATE OF FLORIDA)

:

CERTIFICATE OF REPORTER

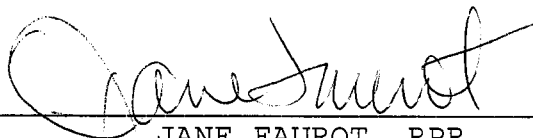
COUNTY OF LEON)

I, JANE FAUROT, RPR, Chief, Office of Hearing Reporter Services, FPSC Division of Commission Clerk and Administrative Services, do hereby certify that the foregoing proceeding was heard at the time and place herein stated.

IT IS FURTHER CERTIFIED that I stenographically reported the said proceedings; that the same has been transcribed under my direct supervision; and that this transcript constitutes a true transcription of my notes of said proceedings.

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.

DATED THIS 7th day of September, 2005.



JANE FAUROT, RPR
Official FPSC Hearings Reporter
FPSC Division of Commission Clerk and
Administrative Services
(850) 413-6732