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# Public Service Commission

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COMMISSION  
CLERK

## -M-E-M-O-R-A-N-D-U-M-

**DATE:** October 12, 2006

**TO:** Director, Division of the Commission Clerk & Administrative Services (Bayó)

**FROM:** Division of Economic Regulation (Draper) *EDD*  
Division of Regulatory Compliance and Consumer Assistance (Plescow) *cap*  
Office of the General Counsel (Brown) *MCB* *Wact* *JP* *AMT* *188*

**RE:** Docket No. 060574-EI – Petition for approval to amend Rate Schedule RS-1, by Progress Energy Florida, Inc.

**AGENDA:** 10/24/06 – Regular Agenda – Tariff Filing – Interested Persons May Participate

**COMMISSIONERS ASSIGNED:** All Commissioners

**PREHEARING OFFICER:** Administrative

**CRITICAL DATES:** 10/25/06 (60-Day Suspension Date)

**SPECIAL INSTRUCTIONS:** None

**FILE NAME AND LOCATION:** S:\PSC\ECR\WP\060574.RCM.DOC

### Case Background

On August 25, 2006, Progress Energy Florida (PEF) filed a petition to amend residential rate schedule RS-1. The petition is the result of recent consumer complaints the Commission received regarding PEF's calculation of prorated residential bills. The Commission has jurisdiction over this matter pursuant to Sections 366.03 and 366.05, Florida Statutes.

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### Discussion of Issues

**Issue 1:** Should the Commission approve PEF's revised residential rate schedule?

**Recommendation:** No. In addition, PEF should calculate a prorated residential bill based on actual kilowatt hour usage as opposed to estimated usage based on a 30-day billing period. (Draper, Brown)

**Staff Analysis:** At issue is PEF's calculation of prorated residential customers' bills and how prorated bills should be calculated when energy and fuel charges are inverted. Rule 25-6.100(4), Florida Administrative Code, requires investor-owned electric utilities to prorate a bill if the regular meter reading date is advanced or postponed by more than five days. Rule 25-6.100(5), F.A.C, requires utilities to prorate charges applicable to service, such as the fixed monthly customer charge. PEF's tariff sections 8.01 and 8.02 implement the rule requirements by stating that a normal billing period is approximately 30 days and that a normal monthly bill will be prorated if the meter reading date is advanced or postponed more than five days from the scheduled read date. However, the Commission's rules and PEF's current tariff do not specifically address how inverted energy and fuel charges should be calculated on a prorated bill.

In PEF's 2000 rate case the Commission approved a settlement and stipulation between PEF and all parties to the docket.<sup>1</sup> The settlement included a provision that residential customers would pay tiered non-fuel energy charges effective July 2002 whereby the energy charge is 3.315 cents per kilowatt hour (c/kWh) for usage up to 1,000 kWhs per month, and 4.315 c/kWh for all usage above 1,000 kWhs. This type of rate design is referred to as an inverted rate design and is intended to encourage energy efficiency and conservation. Prior to July 2002, the residential c/kWh energy charge did not vary based on consumption.

Effective January 2006 the Commission also approved tiered fuel and purchased power cost recovery factors (fuel factor) for PEF's residential customers.<sup>2</sup> For usage up to 1,000 kWhs the fuel factor is 4.979 c/kWh, and 5.979 c/kWh for all usage above 1,000 kWhs. The other adjustment clauses (capacity, environmental, and conservation) are not tiered, i.e., the rate is the same for all kWh levels.

Prior to receiving approval for tiered or inverted energy and fuel charges, the issue of how to prorate a bill was moot. The only charge to be prorated was the fixed monthly customer charge. However, since the implementation of the tiered energy and fuel charges, it has been PEF's practice to calculate a prorated residential bill by estimating the kWh usage that would have occurred if the customer had taken service for 30 days. PEF then determines how much of that usage would have been billed in each tier.

The following example illustrates PEF's methodology. A customer moves into a premises and receives an initial bill for 6 days. During those 6 days the customer used 300

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<sup>1</sup> Order No. PSC-02-0655-AS-EI, issued May 14, 2002, in Docket No. 000824-EI, In re: Review of Florida Power Corporation's Earnings, Including Effects of Proposed Acquisition of Florida Power Corporation by Carolina Power & Light.

<sup>2</sup> Order No. PSC-05-1252-FOF-EI, issued December 23, 2005, in Docket No. 050001-EI, In re: Fuel and purchased power cost recovery clause with generating performance incentive factor.

kWhs. First, PEF calculates a proration factor by dividing the actual number of days of the bill (6 days) by 30 (normal billing period). The proration factor in this illustration is 0.2 (6/30). The proration factor is then multiplied by the 1,000 kWh breakpoint, which is 200 kWh (1,000x0.2). The 200 kWhs are applied to the lower first tier energy and fuel charges, and the remaining 100 kWhs are applied to the higher second tier energy and fuel charges. The customer's bill in this illustration is \$34.10. However, if PEF had billed all usage (300 kWhs) at the first tier energy and fuel charges, the customer's bill would have been \$32.05. In this illustration PEF received \$2.05 of incremental revenues.

PEF states that the above described calculation of prorated residential bills results in approximately \$350,000 of annual incremental base rate revenues and approximately \$350,000 of annual additional fuel revenues. The additional fuel revenues are credited to the fuel and purchased power cost recovery clause to the benefit of all ratepayers. PEF prorates approximately 57,000 residential bills every month. Bills that are prorated are generally initial bills, final bills, or bills after re-connect for non-payment.

The Commission has received five complaints regarding PEF's practice of prorating its tiered energy and fuel charges. The first complaint was received in September 2002 by Mr. Daniel Roy.<sup>3</sup> Mr. Roy compared PEF's calculation to having a salad and an entrée at a restaurant, but also being charged for dessert based on the argument that if he had stayed longer, he would have had dessert. The complaint was closed after Mr. Roy was provided an explanation of PEF's calculation of his bill. It does not appear that Mr. Roy was satisfied with the resolution of his complaint.

The Commission's rules and PEF's current tariff do not address the proration of bills under an inverted rate structure. Based on discussions with staff in response to the recent consumer complaints, PEF filed a petition to amend its residential rate schedules to receive explicit Commission approval for its calculation of energy and fuel charges on prorated residential bills. PEF's proposed residential rate schedule includes a provision that describes the calculation of energy and fuel charges in a prorated bill.

To support its methodology to prorate residential bills, PEF states that its proration promotes the intent of PEF's tiered rates and the promotion of demand side energy conservation. PEF further states that its methodology has been accepted by staff on at least one consumer complaint (Mr. Roy) and is consistent with how other utilities calculate such prorations. Florida Power & Light Company (FPL) also has tiered energy and fuel charges and calculates prorated bills in the same manner as PEF. Tampa Electric, Gulf Power, and Florida Public Utilities Company have flat energy charges and the issue is therefore moot. Staff is not aware of any complaints about FPL with respect to prorated bills.

Staff believes that PEF's methodology to prorate the energy charges does not promote demand side energy conservation and is inconsistent with fundamental regulatory principles of fairness. PEF's tariff clearly states that usage at or below 1,000 kWhs will be billed at the first tier rate. Section 366.03, Florida Statutes, states that all rates and charges made, demanded, or received by any public utility **for any service rendered**, shall be fair and reasonable (emphasis

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<sup>3</sup> See PSC Complaint No. 489165E.

added). Staff believes that is not fair and reasonable to charge customers for service they did not use. It is only fair to charge a customer for service rendered, service they did in fact use.

Therefore, staff recommends that the Commission deny PEF's proposed amended residential tariff. Furthermore, the Commission should order PEF to abandon the calculation of prorated residential bills based on estimated 30-day usage as described in the above illustration. Rather, to calculate a prorated bill, PEF should simply multiply the customer's actual kWh consumption by the applicable energy and fuel charges. PEF states that it will need approximately three months to reprogram its billing system to accommodate staff's recommended prorated residential bill calculation. Staff recommends that PEF notify staff when the billing system has been modified.

**Issue 2:** How should the Commission address the complaints on proration?

**Recommendation:** If the Commission approves the staff recommendation in Issue 1, PEF should refund to all consumers who filed a complaint the amount in dispute. If the Commission denies the staff recommendation in Issue 1, this issue is moot. (Draper, Plescow)

**Staff Analysis:** The Commission has received five consumer complaints regarding PEF's calculation of prorated bills since 2002. Mr. Daniel Roy is addressed in Issue 1. Mr. Roy's usage for a 6-day period was 314 kWhs. A total of 200 kWhs were billed at the first tier energy charge and the remaining 114 kWhs were billed at the second tier energy charge. Mr. Roy prorated bill was \$25.43. However, if his actual usage would have been billed at the first tier energy charge, his bill would have been \$24.26, a difference of \$1.17, which represents the disputed amount. At the time of Mr. Roy's complaint, only PEF's energy charges were tiered.

Mr. James Dunbar complained to the Commission on April 17, 2006.<sup>4</sup> Mr. Dunbar's actual usage for a 13-day billing period was 479 kWhs, however, 433 kWhs were billed at the first tier energy and fuel charges, and 46 kWhs were billed at the higher second tier energy and fuel charges.

Mr. Adam Walfish complained on August 6, 2006.<sup>5</sup> Mr. Walfish consumed 340 kWhs in a 7-day billing period. A total of 233 kWhs were billed at the first tier and 107 kWhs were billed at the second tier charges. Ms. Teresa Hasbrouck complained on September 29, 2006, stating that she used 569 kWhs for one week of service, however, 233 kWhs were billed at the first tier charges, and 336 kWhs were billed at the second tier charges.<sup>6</sup> Finally, Mr. Ronald Jackson contacted the Commission on October 2, 2006.<sup>7</sup> He stated that while he only used 539 kWhs, 467 kWhs were charged at a lower rate, and 72 kWhs at a higher rate.

All five customers consumed fewer than a 1,000 kWhs in the disputed bill, and therefore believe that all usage should have been billed at the lower first tier energy and fuel charges, resulting in lower bills. With the exception of Mr. Roy's complaint, all complaints are open, pending the outcome in this docket.

Based on its recommendation in Issue 1, staff believes that all customers who complained to the Commission (and are still served by PEF) about the calculation of the prorated bill should receive a refund of the amount in dispute. Staff believes that requiring PEF to refund all customers that have received a prorated bill since July 2002 (effective date of inverted energy charges) would be unduly burdensome for the utility and administratively inefficient.

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<sup>4</sup> See PSC Complaint No. 694542E.

<sup>5</sup> See PSC Complaint No. 709404E.

<sup>6</sup> See PSC Complaint No. 713754E

<sup>7</sup> See PSC Complaint No. 713934E

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**Issue 3:** Should this docket be closed?

**Recommendation:** Yes. If no protest is filed within 21 days of the issuance of the order, the docket should be closed upon issuance of a consummating order. If the Commission denies staff's recommendation on Issue 1 the tariff should become effective on October 24, 2006, and if a protest is filed, the tariff should remain in effect, with any revenues held subject to refund, pending the resolution of the protest. (Brown)

**Staff Analysis:** If no protest is filed within 21 days of the issuance of the order, the docket should be closed upon issuance of a consummating order. If the Commission denies staff's recommendation on Issue 1 the tariff should become effective on October 24, 2006, and if a protest is filed, the tariff should remain in effect, with any revenues held subject to refund, pending the resolution of the protest.