

REQUEST FOR CHANGE TO AGENDA CONFERENCE
HAND DELIVER

RECEIVED-TPSC

Date of Request: 12/7/2006 Date of Agenda Conference: 12/19/2006 Item No. AM 11:55

Docket No.: 060658-EI Brief Title: OPC Petition to require PEF to refund \$143 million

05 DEC -7 PM 1:41

Requested by: Staff Other _____ (Name) COMMISSION CLERK

Please attach a copy of the written documentation filed (IF OTHER)

STAFF's Recommendation to Executive Suite (IF OTHER) Approve Request Deny Request

ACTION REQUESTED [see APM 2.11]

- Defer Item to Agenda Scheduled Date: _____
- Change Order of Item or Take Up at Time Certain
- Withdraw Item (not expected to return to Agenda)
- Late Filed Recommendation (must be filed no later than 3:00 p.m. on the date approved for late filing) A copy of the front page of the recommendation must be provided to CCA by 12 noon on the regular filing date for use as a place-holder during agenda preparation.
- Add Item to Published Agenda [see Section 120.525(2), F.S.] – Issue an ADDENDUM and give Legal NOTICE
- Add Emergency Item to Published Agenda [see Section 120.525 (3), F.S.] – Issue an ADDENDUM and Give Fair NOTICE

CMF _____
 COM _____
 CTR _____
 ECR _____
 GCL _____
 OPC _____
 RCA _____
 SCR _____
 SGA _____
 SEC _____
 OTH _____

Concise explanation, justification or comments (attach additional sheet if necessary):

The Motion to Dismiss and response provides extensive legal citation. Extra time for supervisory review of recommendation is needed. We request that we be allowed to file recommendation on Monday, December 11, 2006.

BB
 KF
 RT
 HW
 MAB
 TDD

Signature (Technical Staff): William B. McNeil

Initials (Division Director or Designee): MAB TDD

Signature (Legal Staff): Lisa Bennett

Initials (General Counsel or Designee): _____

EXECUTIVE DIRECTOR:

Recommendation to the Chairman's Office

Initials: MAB

Approve Request Deny Request

Date: 12/7/06

Comments:

CHAIRMAN'S OFFICE:

Initials: OPG / Pch

Approve Request Deny Request

Date: 12/7/06

Executive Suite will send the original to the Division of Commission Clerk & Administrative Services and return copy to the requesting staff after the Chairman's Office takes action on this request. Requesting staff should distribute copies to the Division Directors (OPR & OCR) and Attorney assigned to the docket.

DOCUMENT NUMBER-DATE

11223 DEC-7 06

State of Florida



Public Service Commission

CAPITAL CIRCLE OFFICE CENTER • 2540 SHUMARD OAK BOULEVARD
TALLAHASSEE, FLORIDA 32399-0850

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

DATE: December 7, 2006

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

FROM: Division of Economic Regulation (McNulty, Draper, Lester, Matlock, VonFossen, Windham)
Office of the General Counsel (Bennett)

RE: Docket No. 060658-EI – Petition on behalf of Citizens of the State of Florida to require Progress Energy Florida, Inc. to refund customers \$143 million.

AGENDA: 12/19/06 – Regular Agenda – Motion to Dismiss – Oral Argument Requested – Participation at Commission’s Discretion

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Tew

CRITICAL DATES: None

SPECIAL INSTRUCTIONS: None

FILE NAME AND LOCATION: S:\PSC\ECR\WP\060658.RCM.DOC

Case Background

In the 2006 annual fuel cost recovery docket, Docket No. 060001-EI, the Office of Public Counsel (OPC) filed a petition on August 10, 2006 asking that the Commission require Progress Energy Florida (PEF) to refund \$143 million to Florida ratepayers for purchases of higher costing coal for Crystal River Units 4 and 5. Upon request of OPC and consent by PEF, the matter was spun out of the fuel docket and now is scheduled for a separate proceeding.

OPC, in its fifty-nine page petition and attachments, alleges that from 1996-2005, PEF failed to utilize the most economical sources of coal for ratepayers in its Crystal River Units 4 and 5. OPC alleges that PEF failed to act prudently in incurring the fuel charges and costs of