

ORIGINAL

BEFORE THE PUBLIC SERVICE COMMISSION

In re: Petition on behalf of Citizens of the State of Florida to require Progress Energy Florida, Inc. to refund customers \$143 million.

DOCKET NO. 060658-EI

FILED: FEBRUARY 27, 2007

COMMISSION  
CLERK

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OBJECTION TO ORAL ARGUMENT

Staff of the Public Service Commission objects to Progress Energy Florida's (PEF) Request for Oral Argument and states:

1. Oral argument is not necessary to the Prehearing Officer's decision on PEF's Motion to Strike. PEF, in its Motion to Strike, fully explained its reasons for moving to strike the testimony of staff witness Mr. Bernard Windham.
2. Likewise, staff's Response to the Motion to Strike fully addresses its position. When staff files testimony in a proceeding it is generally done to complete the record for the Commission. Testimony filed by staff is an indication that staff feels there may be additional information available and needed by the Commission in its deliberations on an issue. The main issue before the Commission in this docket is the prudence of the coal purchased by PEF from 1996-2005. The witnesses for Office of Public Counsel (OPC) offered testimony regarding sub bituminous coal pricing during the time period of 1996-2005. OPC's witnesses referred to other types of coal in less detail. Mr. Windham's testimony provides greater detail on pricing of other coal. Mr. Windham offers comparative pricing of other types and sources of coal purchased by other utilities from 1994-2005 as compared to the price PEF paid for coal during that same time period. This information is a compilation of data received both by the Federal Energy Regulatory Commission (FERC) and the Public Service Commission (PSC). It is offered to aid

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the Commission in reviewing PEF's prudence in procuring coal during the time period in question.

3. PEF also addressed, in detail, its concern over whether Mr. Windham testifies as a fact or expert witness. As explained in staff's response, Mr. Windham testified in his position as an employee of the PSC, and as such is offering the expert testimony of a PSC employee. As stated above, staff files testimony, not in an adversarial position, but to supplement the record, thereby giving the Commission as much factual basis for reaching its conclusions, as necessary.

4. It is within the sole discretion of the Prehearing Officer to grant or deny PEF's Request for Oral Argument on its Motion to Strike, Rule 25-22.0022(3), Florida Administrative Code. For this particular Motion, staff requests the Prehearing Officer deny the Request for Oral Argument.

5. If oral argument is granted, staff is prepared to present oral argument in support of its Response to PEF's Motion to Strike.

RESPECTFULLY SUBMITTED, this 27<sup>th</sup> day of February, 2007.



LISA C BENNETT

Staff Attorney

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of STAFF'S MOTION FOR \_\_\_\_\_.

has been served by electronic and U. S. Mail to the following this 27<sup>th</sup> day of February, 2007 :

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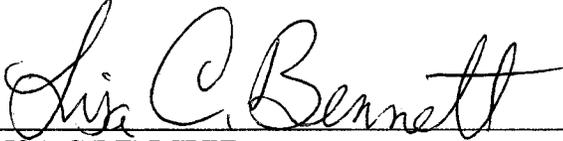
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