

ORIGINAL

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

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COMMISSION
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In re: Petition by Progress Energy Florida,)
Inc. to recover modular cooling tower costs)
through the Environmental Cost recovery)
clause.)
_____)

Docket No. 060162-~~ET~~
Dated: March 14, 2007

DIRECT TESTIMONY

OF

PATRICIA W. MERCHANT, CPA

On Behalf of the Citizens of the State of Florida

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Attorneys for the Citizens
of the State of Florida

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DIRECT TESTIMONY
OF
PATRICIA W. MERCHANT, CPA
On Behalf of the Office of Public Counsel
Before the
Florida Public Service Commission
Docket No. 060162-EI

Introduction

Q. PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.

A. My name is Patricia W. Merchant. My business address is Room 812, 111 West Madison Street, Tallahassee Florida, 32399-1400.

Q. BY WHOM ARE YOU EMPLOYED AND WHAT IS YOUR POSITION?

A. I am a Certified Public Accountant licensed in the State of Florida and employed as a Senior Legislative Analyst with the Office of Public Counsel (OPC). I began my employment with OPC in March, 2005.

Q. PLEASE DESCRIBE YOUR EDUCATIONAL BACKGROUND AND PROFESSIONAL EXPERIENCE.

A. In 1981, I received a Bachelor of Science degree with a major in accounting from Florida State University. In that same year, I was employed by the Florida Public Service Commission (PSC) as an auditor in the Division of Auditing and Financial Analysis. In 1983, I joined the PSC's Division of

1 Water and Sewer as an analyst in the Bureau of Accounting. From May, 1989
2 to February, 2005 I was a regulatory supervisor in the Division of Water and
3 Wastewater which evolved into the Division of Economic Regulation.

4

5 **Q. HAVE YOU PREVIOUSLY TESTIFIED BEFORE THE FLORIDA**
6 **PUBLIC SERVICE COMMISSION?**

7 A. Yes, I have testified numerous times before the PSC. I have also testified
8 before the Division of Administrative Hearings as an expert witness.

9

10 **Q. ARE YOU SPONSORING AN EXHIBIT IN THIS CASE?**

11 A. Yes. I am sponsoring the following exhibits, which are attached to my
12 testimony:

13

14 Exhibit PWM-1 is a summary of my regulatory experience and qualifications.

15

16 Exhibit PWM-2 is an analysis of the impact that absorbing the 2006 modular
17 cooling tower estimated capital and operating costs would have on PEF's
18 earned return on equity for 2006.

19

20 **Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?**

21 A. The purpose of my testimony is to discuss the proper regulatory treatment of
22 modular cooling tower costs that PEF seeks to recover either through the
23 Environmental Cost Recovery Clause ("ECRC") or the Fuel and Purchased
24 Power Cost Recovery Clause ("fuel clause").

25

1 **Q. HAVE YOU REVIEWED PEF's PETITION FOR APPROVAL OF THE**
2 **COSTS ASSOCIATED WITH THE MODULAR COOLING TOWERS**
3 **IN THIS DOCKET?**

4 A. Yes. PEF's original petition was filed on February 24, 2006 and was styled
5 as a request for recovery of the modular cooling towers through the fuel
6 clause. On page two of its original petition, PEF stated that the costs of the
7 modular cooling tower project are unanticipated and will result in significant
8 savings to its ratepayers, and asserted the costs qualify for recovery through
9 the fuel clause pursuant to Order No. 14546. PEF subsequently revised its
10 filing and requested authority to collect the costs through the ECRC. In its
11 amended petition, PEF stated that this change was based on consultations with
12 Commission staff.

13
14 **Q. HOW DOES YOUR TESTIMONY RELATE TO THAT OF TOM**
15 **HEWSON, WHO ALSO IS TESTIFYING FOR THE CITIZENS?**

16 A. Citizen's witness Hewson addresses whether the costs for specific requested
17 projects are required by new environmental law, regulation or mandate and
18 are thus eligible for inclusion in the ECRC, or alternatively are appropriate to
19 be recovered through the fuel clause. He and I both apply the results of his
20 analysis to the criteria for eligibility for recovery through either of the two
21 cost recovery clauses. In support of the result we seek, I will also testify
22 regarding ratemaking theory and the proper roles of base rates and cost
23 recovery clauses in designing fair and reasonable rates.

24

1 **Q. ARE YOU TAKING ISSUE WITH THE PRUDENCE OF THIS**
2 **PROJECT?**

3 A. No. The company should take all reasonable efforts to make sure that it
4 complies with all environmental regulations and that the costs that it incurs are
5 the most economical and prudent decisions based on the circumstances that
6 occur in maintaining and operating its plants. We have not investigated or
7 challenged the prudence of these costs. However, a cost may be prudent and
8 not be appropriate for recovery through a cost recovery clause. We take issue
9 with PEF's proposal to collect the costs through a cost recovery clause rather
10 than through base rates.

11

12 **Q. WHAT ARE THE TWO MAIN TYPES OF RATE RECOVERY**
13 **MECHANISMS AVAILABLE TO ELECTRIC UTILITIES?**

14 A. The principal rate recovery mechanisms available for regulated electric
15 utilities are base rates and special cost recovery clauses. Each recovery
16 method has its defined role, and they are designed to work together to ensure
17 that rates paid by customers are fair, just, reasonable and not unduly
18 discriminatory.

19

20 **Q. PLEASE DESCRIBE THE BASE RATE RECOVERY MECHANISM.**

21 A. Base rates are designed to allow the utility the opportunity to recover its
22 prudent operating costs and a reasonable rate of return on its investment in
23 utility plant. In a base rate case, a test year is used to examine the levels of
24 plant investment and operating costs that represent the levels that will be
25 incurred when the rates go into effect. Adjustments are made to remove any

1 unreasonable amounts and to normalize nonrecurring or extraordinary
2 amounts in the test year. By analyzing the data included in the utility's rate
3 request, the Commission determines the total amount of revenues the utility
4 should be allowed to collect and then designs rates that will generate that
5 revenue figure.

6

7 **Q. HOW DOES THE COMMISSION ALLOW THE UTILITY THE**
8 **OPPORTUNITY TO RECOVER A REASONABLE RATE OF**
9 **RETURN ON ITS INVESTMENT?**

10 A. In setting rates, the Commission determines the overall rate of return on the
11 utility's investment in its utility plant. This overall cost of capital is based on
12 the weighted average cost of debt, equity and other sources of capital. The
13 cost of debt and other sources of capital are determined based on stated cost
14 rates, and the cost of equity is based on the level of profit and business risk for
15 which utility shareholders should be compensated.

16

17 **Q. HOW DOES REGULATORY THEORY ADDRESS THE SUBJECT OF**
18 **DESIGNING RATES TO BE SUFFICIENT FOR FUTURE PERIODS?**

19 A. Ratemaking principles recognize that after rates are set, the future
20 relationships between costs and revenues will change from those levels used
21 in setting the rates. The level of a particular cost may increase, decrease, or
22 the cost may go away altogether. Costs that were non-existent during the test
23 period may arise after the rates take effect. Projected revenue levels will also
24 vary based on customer growth, changes in consumption, or a combination of
25 both. An increase in a particular expense level does not automatically cause a

1 utility to earn less than its fair rate of return on its investment or to not recover
2 the expense. In order to determine whether an increase in a single cost is
3 affecting a utility adversely, it is necessary to consider the overall relationship
4 of total revenues and total costs.

5

6 **Q. HOW DOES ONE GAUGE WHETHER A UTILITY IS RECOVERING**
7 **ALL OF ITS OPERATING COSTS AT A GIVEN POINT IN TIME?**

8 A. If the utility's revenues exceed its expenses, including debt costs, then it has
9 recovered all of its operating costs from customers.

10

11 **Q. HOW DOES ONE GAUGE WHETHER THE RETURN ON**
12 **INVESTMENT IS REASONABLE AT A GIVEN POINT IN TIME?**

13 A. The Commission sets rates using the mid-point of the authorized rate of return
14 on equity (ROE) and then establishes a range for the ROE. If the utility earns
15 within the range, generally set at 100 basis points on either side of the mid-
16 point, then the utility is earning a fair return on its investment and is
17 recovering its prudent operating costs. If the utility is earning above or below
18 the range on its ROE, then it is over- or under-earning, respectively.

19

20 **Q. PLEASE DESCRIBE THE VARIOUS COST RECOVERY CLAUSES**
21 **AVAILABLE TO ELECTRIC COMPANIES.**

22 A. The cost recovery clauses available to electric companies are the fuel clause,
23 the ECRC, and the Energy Conservation Cost Recovery Clause ("ECCR").
24 Whereas, base rates are designed to generate revenues that reflect a variety of
25 costs, the cost recovery clauses focus on specific costs and design a rate

1 element or rate factor to track changes in those costs. The clauses enable
2 companies to recover specific costs on a current basis outside of base rate
3 considerations. Clauses provide dollar for dollar rate recovery of the specific
4 eligible costs identified for inclusion through the true-up process as long as
5 those costs are deemed to be prudently incurred. They are a departure from
6 the traditional base rate mechanism, under which the rates are designed to
7 provide the utility an opportunity, not a guarantee, to recover its prudent costs
8 and to earn a fair return. Base rate revenues and base rate earnings may
9 increase or decrease as relationships change. There is no “true-up” provision.

10

11 The fuel clause provides recovery to the utility for the day to day fluctuations
12 in the cost of fuel and other volatile fuel-related costs that cannot be timely
13 tracked and recovered in base rates. In the case of environmental costs,
14 Section 366.8255, Florida Statutes, mandates the use of a cost recovery clause
15 for qualifying expenditures. Pursuant to Section 366.82, Florida Statutes, the
16 conservation clause allows utilities to recover costs to implement cost-
17 effective demand side conservation programs. All of the cost recovery factors
18 are reestablished annually and include projections for the prospective year.
19 The factors also include a true-up of the current year projections based on
20 actual and prudent expenses incurred, with over or under recoveries included
21 in the next year’s factor.

22

23 **Q. WHY IS IT IMPORTANT TO LIMIT THE COSTS THAT ARE**
24 **COLLECTED THROUGH A COST RECOVERY CLAUSE TO THOSE**
25 **THAT ARE ELIGIBLE?**

1 A. The reason is simple. If a cost does not legitimately meet the definition of
2 costs that qualify for a recovery clause, it should be borne through base rates.
3 To allow the cost to instead flow through the clause will result in an
4 unwarranted increase in overall charges borne by customers. This
5 unwarranted increase in revenues directly benefits shareholders, to the
6 detriment of ratepayers.

7

8 **Q. CAN YOU GIVE AN EXAMPLE TO MAKE THIS POINT?**

9 A. Yes. Assume a utility has a rate base (a utility's net investment in utility plant)
10 of \$1 billion, a Commission-authorized fair rate of return with a range of 9%
11 to 11%, and net income of \$100 million. Assume that the Commission must
12 consider the following: a) allow the utility to collect an additional \$1 million
13 expense normally recovered in base rates through the fuel clause or b) require
14 the utility to absorb the expense in earnings achieved from base rates.
15 Assume the achieved rate of return before the additional expense will be 10%,
16 which is in the middle of the authorized range.

17

18 If the utility is allowed to collect the additional expense through the fuel
19 clause, base rates will not change; but the customers will pay additional fuel
20 revenues of \$1 million. However, if the Commission denies the request to
21 recover the expense through the clause, the utility will recover the expense
22 through revenues generated by base rates. In this later scenario, the
23 customers' overall bill will not go up — both fuel revenues and base rate
24 revenues will be unchanged. The income for the period becomes \$99 million
25 instead of \$100 million and the return falls from 10% to 9.9%. The return is

1 still well within the range of the return that the Commission established as fair
2 and reasonable.

3
4 Because special cost recovery clause treatment enables the utility to avoid
5 absorbing the expense through base rate earnings, the utility has a powerful
6 financial incentive to steer as many costs as possible through recovery clauses.
7 For this reason, the Commission should be ever vigilant for claims that new or
8 unusual costs belong in a cost recovery clause as opposed to being absorbed in
9 base rates.

10

11 **Q. HAS THE COMMISSION ADDRESSED THE APPROPRIATE WAY**
12 **TO DETERMINE WHAT TYPES OF COSTS ARE ALLOWED TO BE**
13 **RECOVERED THROUGH THE ECRC?**

14 A. Yes. By Order No. PSC-94-0044-FOF-EI¹, the Commission outlined the most
15 appropriate way to implement the intent of the ECRC statute as follows:

16

17 Upon petition, we shall allow the recovery of costs associated
18 with an environmental compliance activity through the
19 environmental cost recovery factor if:

- 20 1. such costs were prudently incurred after April 13, 1993;
21 2. the activity is legally required to comply with a
22 governmentally imposed environmental regulation enacted,

¹ Order No. PSC-94-0044-FOF-EI, issued January 12, 1994, in Docket No. 930613-EI, In re: Petition to establish an environmental cost recovery clause pursuant to Section 366.0825, Florida Statutes, by Gulf Power Company.

1 became effective, or whose effect was triggered after the
2 company's last test year upon which rates are based; and,

3 3. such costs are not recovered through some other cost
4 recovery mechanism or through base rates.

5 In addition, we shall consider that all costs associated with
6 activities included in the test year of the utility's last rate case are
7 being recovered in base rates unless there have been new legal
8 environmental requirements which change the scope of
9 previously approved activities and caused costs to change from
10 the level included in the test year. If new legal requirements
11 cause an increase, or decrease, in costs from the level included in
12 the test year of the utility's last rate case, the amount recovered
13 through base rates should be the determined to be the amount
14 included in the test year. (Order at page 6-7.)

15

16 **Q. WHAT DOES CITIZEN’S WITNESS HEWSON SAY REGARDING**
17 **THE MODULAR COOLING TOWER PROJECT AND WHETHER**
18 **THOSE COSTS QUALIFY FOR RECOVERY UNDER THE ECRC?**

19 A. Mr. Hewson concludes that the cooling towers are intended to help PEF
20 comply with a requirement that predated the passage of the statute and the
21 company’s last rate case. Further, the effect of the requirement was not
22 “triggered” after PEF’s last rate case.

23

24 **Q. WHAT IS THE IMPORT OF THE RESULTS OF MR. HEWSON’S**
25 **ANALYSIS?**

1 A. The cost does not satisfy any of the commission's eligibility criteria. They do
2 not belong in the ECRC.

3

4 **Q. PEF WITNESS PORTUONDO TESTIFIES THAT THE MODULAR**
5 **COOLING COSTS WERE NOT RECOVERED THROUGH BASE**
6 **RATES ESTABLISHED IN DOCKET NO. 050078-EI BECAUSE THE**
7 **PROJECT WAS NOT ANTICIPATED AT THAT TIME. DO YOU**
8 **AGREE WITH THIS STATEMENT?**

9 A. I disagree with the premise that only if a cost was reflected as a specific line
10 item in the last test year is it being recovered through base rates. As I testified
11 earlier, because base rates are designed and intended to recover all changing
12 base rate-related costs of whatever description, as long as the utility's base
13 rate revenues exceed its expenses including debt, then it is recovering all of
14 those expenses.

15

16 **Q. DOES WITNESS PORTUONDO'S EXHIBITS JP-1 and JP-2 SHOW**
17 **THAT THE MODULAR COOLING TOWER COSTS WERE NOT**
18 **INCLUDED AS HE HAS TESTIFIED?**

19 A. No. On page 6, he states that one can glean from MFR Schedule C-6, entitled
20 "Budgeted Versus Actual Operating Revenue and Expenses" from the last rate
21 case docket that the modular cooling tower costs were not included. In
22 looking at page 2 in Exhibit JP-1, all one can see is a comparison of amounts
23 budgeted compared to actual by account title for the years 2000 to 2006. The
24 same is true with regard to Exhibit JP-2, which reflects the monthly plant
25 balances for the 2006 test year. This MFR schedule shows only total plant

1 balances and does not reflect any itemization of projects or a description of
2 any plant additions. Without looking at the supporting detail behind either of
3 these schedules, which is not part of the MFRs, one cannot tell what costs or
4 activities are included in the MFRs. Based on these two exhibits, I do not
5 believe that PEF has demonstrated that it did not estimate costs of compliance
6 with its permit related to temperature of cooling water discharged from the
7 Crystal River plant for base rate purposes.

8

9 **Q. WHAT OTHER POINTS DO YOU HAVE REGARDING MFR**
10 **PROJECTION LEVELS?**

11 A. Basic ratemaking theory recognizes that it is impossible to project exactly
12 what levels will be incurred after the rate case has concluded. This is precisely
13 the basis for allowing utility companies to earn within a range of
14 reasonableness on its rate of return on equity. Just because an item is not
15 specifically spelled out in the company's last MFRs certainly does not mean
16 that it cannot recover the costs and earn a fair return on its investment through
17 base rates. That is the nature of the rate setting process and the company is
18 adequately compensated for this risk through the rate of return on equity
19 approved.

20

21 **Q. PLEASE ADDRESS THE TYPES OF COSTS THE COMMISSION**
22 **ALLOWS UTILITIES TO RECOVER THROUGH THE FUEL**
23 **CLAUSE.**

24 A. Order No. 14546, from the 1985 fuel clause docket, addresses the cost
25 recovery method for fuel-related expenses. Prudently incurred fossil fuel-

1 related expenses subject to volatile changes are recovered through the fuel
2 clause. Specifically, the order reflects those incurred prior to the delivery of
3 fuel to the utility's dedicated storage facilities. The order states that all other
4 fossil fuel-related costs should be recovered through base rates. The
5 Commission said other fossil fuel-related costs normally recovered through
6 base rates could be considered in the fuel clause to the extent that those
7 costs resulted in fuel savings to the customers, but required a case-by-case
8 consideration of requests for approval.

9
10 **Q. DO YOU BELIEVE THAT THE MODULAR COOLING TOWER**
11 **COSTS ARE APPROPRIATE TO BE RECOVERED THROUGH THE**
12 **FUEL CLAUSE?**

13 A. No. The modular cooling tower costs do not qualify for recovery through the
14 fuel clause. Witness Portuondo, on page 10 of his revised direct testimony
15 testifies that the costs should be recovered through either the ECRC or the fuel
16 clause. On page 7, he states that Order No. 14546 established the guidelines
17 for fuel cost recovery. He quotes paragraph 10 of that order which states:

18
19 Fossil fuel-related costs normally recovered through base rates
20 but which were not recognized or anticipated in the cost levels
21 used to determine current base rates and which, if expended,
22 will result in fuel savings to customers. Recovery of such costs
23 should be made on a case by case basis after commission
24 approval.

1 **Q. WHY SHOULD THE COMMISSION REFUSE TO ALLOW PEF TO**
2 **COLLECT THESE COSTS THROUGH THE FUEL CLAUSE?**

3 A. First, the modular cooling tower costs are not fossil-fuel related. These costs
4 are well-removed from the portion of the plant where fuel consumption enters
5 into the process, as OPC witness Hewson observes. These costs were incurred
6 to maintain compliance with the plant permits regarding water temperature
7 requirements that have been in effect since 1988.

8
9 Secondly, Paragraph 10 in the order was meant to encourage utilities to spend
10 money that they might not otherwise choose to spend to save fuel costs. The
11 example given on page 3 of the order was to allow fuel recovery of the cost of
12 an unanticipated short-term lease of a terminal to allow a utility to receive a
13 shipment of low cost oil. We do not acquiesce to the view that it is
14 appropriate for a utility to for go expenditures that would lower fuel costs just
15 because the expenditure would temporarily affect base rate earnings.

16 However, as Mr. Hewson develops in his testimony, complying with permit
17 terms so as to avoid having to curtail operations is a fundamental operational
18 need and is not an example of the fuel-related type of expenditure the
19 Commission had in mind.

20
21 Further, if you accept PEF's fuel savings argument, then by extension all costs
22 incurred in planned or unplanned outages of any lower-fuel cost plant would
23 qualify for the fuel clause. These types of costs are properly considered
24 operation and/or maintenance costs and they belong in base rates. This is true
25 even though the exact type of project may not have been anticipated when the

1 last base rate test year projections were made. The bottom line is that costs
2 avoided from planned outages, de-rates or unplanned outages are operation
3 and/or maintenance costs, not fuel costs, and properly belong in base rates.
4 Further, it is only reasonable and prudent for the utility to operate their plants
5 to avoid increased fuel costs.

6
7 **Q. ARE THE MODULAR COOLING TOWER COSTS VOLATILE?**

8 A. No. These costs are essentially compliance costs that do not meet the standard
9 for recovery through the ERCR or the fuel clause and are not "volatile fuel
10 costs" and therefore should be recovered through base rates.

11
12 **Q. WOULD THE REFUSAL TO ALLOW CLAUSE RECOVERY THAT**
13 **YOU RECOMMEND TREAT PEF HARSHLY?**

14 A. No. Rather, PEF is seeking extraordinary treatment of amounts that are
15 ineligible for clause treatment and in any event have no material bearing on its
16 earnings. Based on information contained in the most recent surveillance
17 report as of December 31, 2006², and information I took from PEF's 2006
18 ECRC exhibits³, I calculated that absorbing the modular cooling tower costs
19 in base rate earnings would cause PEF's return on equity to fall by just
20 9/100ths of 1% during the first, highest-cost year. (Exhibit ____ PWM-2).
21 The impact on subsequent years would be less.

22
23 **Q. DO YOU BELIEVE THAT PEF'S BASE RATES ARE SUFFICIENT**

² PEF December 31, 2006, Surveillance Report filed with Commission staff dated February 14, 2007.

³ Direct testimony exhibit of J. Portuondo in the ECRC Docket No. 060007-EI, filed with the Commission on August 4, 2006.

1 **TO ABSORB THE COSTS OF THE MODULAR COOLING TOWERS?**

2 A. Yes. Based on my analysis PEF could include all of the 2006 costs for the
3 cooling towers in base rates and fully recover its operating costs and earn a
4 fair rate of return on its investment. In short, PEF can and will recover these
5 costs in base rates. On the other hand, if these costs are recovered through
6 either the ECRC or the fuel clause, the ratepayers will receive an unwarranted,
7 back-door rate increase.

8

9 **Q WOULD YOUR VIEW OF THE PROPER FUNCTIONS OF BASE**
10 **RATES AND COST RECOVERY CLAUSES CHANGE IF THE**
11 **UTILITY WAS EARNING LESS THAN A FAIR RATE OF RETURN**
12 **AT THE TIME IT INCURS THE COST FOR WHICH IT SEEKS**
13 **RECOVERY THROUGH A CLAUSE?**

14 A. No. If, hypothetically, the utility is earning less than the bottom of the range
15 of its authorized rate of return, then its appropriate recourse is -- not abuse a
16 clause -- to avail itself of the opportunity afforded it by statute to seek an
17 adjustment in base rates. If it does so, then customers and the Commission
18 will have an opportunity to assess the company's condition on an overall
19 basis. Ultimately, the responsibility belongs solely with the utility's
20 management to consider the need to seek base rate relief.

21

22 **Q. DO YOU BELIEVE INCLUDING THE MODULAR COOLING**
23 **TOWER COSTS IN THE FUEL CLAUSE WOULD VIOLATE THE**
24 **2005 RATE CASE SETTLEMENT APPROVED BY THE**
25 **COMMISSION IN DOCKET NO. 050078-EI.**

1 A. Yes, I believe that it would. I believe that these costs are normal capital and
2 operating costs that are traditionally and historically included in base rates.
3 The 2005 rate case settlement order⁴ stated the following:

4
5 ... During the term of this Stipulation and Settlement, except as
6 otherwise provided for in this Agreement, or except for
7 unforeseen extraordinary costs imposed by government
8 agencies relating to safety or matters of national security, PEF
9 will not petition for any new surcharges ... to recover costs that
10 are of a type that traditionally and historically would be, or are
11 presently, recovered through base rates. (Paragraph 4)

12
13 Thus it is clear to me that including these unanticipated but normal operating
14 costs in the ERCR or fuel clause would violate the terms of PEF's rate case
15 settlement. Even in his direct testimony, Witness Portuondo uses the
16 language from Order No. 14546, paragraph 10, to support that these costs are
17 normal base rate type costs. He relies on the language that states: "Fossil-fuel
18 related costs normally recovered through base rates...", see Page 7, lines 18-
19 19 (Emphasis added).

20
21 **Q. WHAT ACTION DO YOU BELIEVE THAT THE COMMISSION**
22 **SHOULD TAKE REGARDING THE MODULAR COOLING TOWER**
23 **COSTS?**

⁴ In re: Petition for rate increase by Progress Energy Florida, Inc., in Docket No. 050078-EI, Order No. PSC-05-0945-S-EI, issued September 28, 2005.

1 A. These costs belong in base rates. PEF should be refund all amounts collected
2 through the ECRC in 2006 and 2007 estimates, with interest. The refund
3 should be implemented as a part of the 2007 true-up proceeding.

4

5 **Q. DOES THIS COMPLETE YOUR TESTIMONY?**

6 A. Yes, it does.

DOCKET NO. 060162-EI
CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by electronic mail and U.S. Mail on this 14th day of March, 2007, to the following:

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Resume

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Professional Experience:

March, 2005 to Present

Office of Public Counsel – Senior Legislative Analyst

In my current position, I perform financial and accounting analysis and reviews, and provide testimony, as required, involving utility filings before the Florida Public Service Commission (or other jurisdictions) as an advocate for the Citizens of the State of Florida.

1981 to February, 2005 - Florida Public Service Commission

2000 to February, 2005

Public Utilities Supervisor – File and Suspend Rate Case Section, Bureau of Rate Filings, Division of Economic Regulation

In this capacity I was supervised 5 to 8 regulatory professionals. This section performed financial, accounting, engineering and rate review and evaluation of rate proceedings for large water and wastewater utilities, as well as electric and gas utilities regulated by the Commission. The types of cases included file and suspend rate cases, limited proceedings, overearning investigations, annual report reviews, service availability and tariff filings, rulemaking, and customer complaints. The section reviewed utility filings, requested and reviewed Commission staff audits, and generated and analyzed discovery requests. I coordinated and prepared staff recommendations to the Commission for agenda conferences. I reviewed the analytical work and edited the written documents of all analysts in this section for proper regulatory theory, grammar and accuracy. I also made presentations to customer groups at Commission staff customer meetings for the rate proceedings to which I was assigned. We presented recommendations at agenda conferences, providing responses to comments and questions by other parties and Commissioners. I also prepared and presented testimony, and assisted in the preparation of cross-examination questions for depositions and formal hearings. Additionally, I provided training in regulatory theory for new staff and provided training on regulatory and accounting issues for other analysts at the Commission.

1989 – 2000

Regulatory Analyst Supervisor, Accounting Section, Bureau of Economic Regulation, Division of Water and Wastewater

I supervised 5-7 regulatory accounting analysts. This section performed the same job activities as above specifically for the larger Commission regulated Class A and B water and wastewater companies.

1983 – 1989

Regulatory Analyst – Accounting Bureau, Division of Water and Wastewater

As an accounting analyst, I performed the same job activities as described above for water and wastewater companies in a non-supervisory role.

1981 – 1983

Public Utilities Auditor, Division of Auditing and Financial Analysis

As an auditor in the Tallahassee district of the Commission, I performed financial and accounting audits of electric, gas, telephone, water and wastewater utilities under the Commission's jurisdiction.

Education and Professional Licenses

1981 Bachelor of Science with a major in accounting from Florida State University

1983 Received a Certified Public Accountant license in Florida

List of Cases in which Testimony was Submitted

Dockets Before the Florida Public Service Commission:

050958-EI – Petition for approval of new environmental program for cost recovery through Environmental Cost Recovery Clause by Tampa Electric Company. (testified at hearing)

060658-EI - Petition on Behalf of Citizens of the State of Florida to require Progress Energy Florida, Inc. to Refund Customers \$143 million. (filed testimony stipulated into record)

060362-EI - Petition to Recover Natural Gas Storage Project Costs through Fuel Cost Recovery Clause, by Florida Power & Light Company. (testified at hearing)

050045-EI - Petition for Rate Increase by Florida Power & Light Company. (filed testimony, deposed, case settled prior to hearing)

991643-SU - Application for Increase in Wastewater Rates in Seven Springs System in Pasco County by Aloha Utilities, Inc. (testified at hearing)

971663-WS - Application of Florida Cities Water Company, Inc. for a limited proceeding to recover environmental litigation costs. (all testimony and exhibits stipulated into record without hearing)

940847-WS - Application of Ortega Utility Company for increased water and wastewater rates. (testified at hearing)

911082-WS - Water and Wastewater Rule Revisions to Chapter 25-30, Florida Administrative Code. (testified at hearing)

881030-WU - Investigation of Sunshine Utilities of Central Florida rates for possible over earnings. (testified at hearing)

850151-WS - Application of Marco Island Utilities, Inc. for increased water and wastewater rates. (testified at hearing)

850031-WS - Application of Orange/Osceola Utilities, Inc. for increased water and wastewater rates in Osceola County (testified at hearing)

840047-WS - Application of Poinciana Utilities, Inc. for increased water and wastewater rates (testified at hearing)

Cases Before the Division of Administrative Hearings:

97-2485RU - Aloha Utilities, Inc., and Florida Waterworks Association, Inc., Petitioners, vs. Public Service Commission, Respondents, and Citizens of the State of Florida, Office of Public Counsel, Intervenors (deposed and testified at hearing)

**PEF Earnings Analysis
Adjusted for Inclusion of Modular
Cooling Towers in Base Rates
As of 12/1/2006**

**Docket No. 060162-EI
Adjusted ROR for PEF
Exhibit ___ (PWM-2)
Page 1 of 1**

<u>13-Month Average</u>	<u>FPSC Adjusted</u>	<u>% to Total</u>	<u>Mid point Cost Rate</u>	<u>Weighted Cost</u>
Common Equity-Mid Point	2,626,115,733	60.35%	11.75%	7.09%
Preferred Stock	19,963,104	0.46%	0.0451	0.02%
Long Term Debt	1,288,684,378	29.61%	5.74%	1.70%
Short Term Debt	1	0.00%	0.00%	0.00%
Customer Deposits	89,597,519	2.06%	6.21%	0.13%
Customer Dep. Inactive	409,176	0.01%	0.00%	0.00%
Deferred Income Tax	311,003,361	7.15%	0.00%	0.00%
ITC-Equity	10,779,316	0.25%	11.69%	0.03%
ITC-Debt	<u>5,249,706</u>	<u>0.12%</u>	5.74%	<u>0.01%</u>
Total	<u>4,351,802,294</u>	<u>100.00%</u>		<u>8.97%</u>

Range of Rate of Return on Equity: 10.75% to 12.75%

	<u>Jurisdictional FPSC Adjusted</u>	<u>2006 Estimated Mod. Cooling Tower Costs Per ECRC</u>	<u>Jurisdictional OPC Adjusted ROR</u>
Average Rate of Return (Jurisdictional)			
Net Operating Income	\$371,023,261		
Less: Modular Cooling Tower (MCT) Costs			
O&M Expenses (2)		\$4,564,195	
Depreciation Expense (2)		\$37,196	
Property Taxes (2)		<u>\$3,210</u>	
Total Expenses for MCT Costs Before Tax Effect		\$4,604,601	
Tax Impact of Shifting Expenses to Base Rates	38.58%	<u>-\$1,776,225</u>	
Total Expenses for MCT Costs Including Tax Effect		\$2,828,376	
Jurisdictional Factor Net (2)		<u>0.94287</u>	
Jurisdictional Expense Adjustment		<u>\$2,666,791</u>	
OPC Adjusted NOI			<u>\$368,356,470</u>
Rate Base (1) and (2)	<u>\$4,351,802,294</u>	\$253,954	
Jurisdictional Factor Net (2)		<u>0.93753</u>	
Jurisdictional Rate Base Adjustment		<u>\$238,090</u>	
OPC Adjusted Rate Base			<u>\$4,351,564,204</u>
Average Overall Rate of Return	<u>8.53%</u>		<u>8.46%</u>
Achieved Rate of Return on Equity			<u>10.91%</u>
Achieved Rate of Return on Equity per 2006 Surveillance Report			<u>11.00%</u>

Reduction in ROE from Absorbing Modular Cooling Costs in 2006

<u>0.09%</u>

Notes:

- (1) Source: December 31, 2006 Rate of Return Report filed with Commission staff, dated February 14, 2007 (Schedule 4 p 2 of 2).
- (2) Source: Direct testimony of J. Portuondo in the ECRC Docket No. 060007-EI, Forms 42-5E, 42-6E, and 42-8E, page 11 of 11, filed August 4, 2006.

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition by Progress Energy Florida,)
Inc. to recover modular cooling tower costs)
through the Environmental Cost recovery)
clause.)
_____)

Docket No. 060162-EI
Dated: March 14, 2007

DIRECT TESTIMONY

OF

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On Behalf of the Citizens of the State of Florida

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