

Matilda Sanders

From: Cecilia Bradley [Cecilia.Bradley@myfloridalegal.com]
Sent: Monday, April 30, 2007 5:13 PM
To: Filings@psc.state.fl.us
Subject: Docket No. 060658 Attorney General Post Hearing Statement
Attachments: Post Hearing 2.pdf

ORIGINAL

Attached is the Attorney General's Post Hearing Statement for filing in Docket No. 060658. Thank you.

Cecilia Bradley
Senior Assistant Attorney General
General Civil/State Programs
Office of the Attorney General
Tel.: (850) 414-3300 Suncom: 994-3300
Fax: (850) 488-4872 Suncom: 278-4872
E-mail:cecilia.bradley@myfloridalegal.com

CMP _____
COM 5
CTR _____
ECR _____
GCL _____
OPC _____
RCA _____
SCR _____
SGA _____
SEC _____
OTH _____

DOCUMENT NUMBER-DATE

03672 MAY-1 5

FPSC-COMMISSION CLERK

ORIGINAL

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

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

**DOCKET NO. 060658-EI
FILED: March 9, 2007**

ATTORNEY GENERAL'S POSTHEARING STATEMENT

Bill McCollum , Attorney General, State of Florida, submits this his posthearing statement as follows:

ISSUE 1: PEF did not act prudently in purchasing coal for Crystal River Units 4 and 5 beginning in 1996 and continuing to 2005.

PEF designed Crystal River Units 4 and 5 to burn a mixture of subbituminous coal. Such a design made the plant more expensive and that expense was passed along to their customers. PEF submitted applications for environmental permits and stated that the mixture of subbituminous coal was the most economical fuel to burn and that they planned and sought permission to burn this coal mixture in Cyrstal River Units 4 and 5. See Hearing Exhibit 25 and Sansom Direct, TR -83.

By 1996, the cost of the subbituminous coal had dropped, making it the most economical coal to burn. However, PEF's customers did not receive the benefit they had paid for because PEF had resubmitted applications for environmental permits and withdrawn their request to burn the subbituminous coal. This was a double blow to PEF's customers because they had paid for a more expensive plant to be built and now were paying for more expensive coal. Further, the subbituminous coal was better for the environment because it contained less sulphur, thus denying PEF's customers another befit.

DOCUMENT NUMBER-DATE

03672 MAY-15

FPSC-COMMISSION CLERK

PEF's allegations that they never intended to burn subbituminous coal is rebutted by their own documents and the testimony of Mr. Weintraub who testified that they were again considering burning subbituminous coal. It cannot be merely a coincidence that the interest in burning the more economical subbituminous coal coincides with the decrease in the tax breaks which PEF was getting for burning synfuels purchased from their affiliates.

Pef's allegations that it was too dangerous to burn subbituminous coal near a nuclear plant is rebutted by their own early documents and the testimony that there was a problem burning bituminous coal early on but that they learned how to burn that more safely and the same could be done with the subbituminous coal by making sure the plant remained clean and dust-free.

Finally, PEF's argument that the subbituminous coal was not more economical is rebutted by the number of plants which burned this coal mixture during this time. Some of these plants went to great expense to retrofit their plants to burn this coal and to get out of existing contracts, demonstrating the great cost savings from use of the subbituminous coal.

The Office of the Attorney General adopts and supports the position of the Public Counsel on this issue.

ISSUE 2: The Office of the Attorney General adopts and supports the position of the Public Counsel on this issue.

ISSUE 3: The Office of the Attorney General adopts and supports the position of the Public Counsel on this issue.

ISSUE 4: The Office of the Attorney General adopts and supports the position of the Public Counsel on this issue.

ISSUE 5: The Attorney General takes no position on this issue.

ISSUE 6: The Office of the Attorney General adopts and supports the position of the
Public Counsel on this issue.

Respectfully submitted,

BILL McCOLLUM
ATTORNEY GENERAL

/s Cecilia Bradley
CECILIA BRADLEY
Senior Assistant Attorney General
Florida Bar No. 0363790

DOCKET NO. 060658-EI
CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of Attorney General Bill McCollum's Post Hearing Statement has been furnished by electronic mail and U.S. Mail on this 930th day of April, 2007, to the following:

Lisa Bennett, Esq.
Florida Public Service Commission
2540 Shumard Oak Blvd.
Tallahassee, FL 32399-0850

Joseph A. McGlothlin
Associate Public Counsel
Office of Public Counsel
c/o The Florida Legislature
111 W. Madison st., Room 812
Tallahassee, FL 32399-1400

Michael B. Twomey, Esq.
Post Office Box 5256
Tallahassee, FL 32314-5256

Lieutenant Colonel Karen White
Captain Damund Williams
Federal Executive Agencies
139 Barnes Drive, Suite 1
Tyndall AFB, FL 32403-5319

Robert Scheffel Wright, Esq.
Young van Assenderp, P.A.
225 S. Adams St., Suite 200
Tallahassee, FL 32301

John McWhirter, Jr., Esq.
McWhirter, Reeves Law Firm
400 North Tampa St., Suite 2450
Tampa, FL 33602

Cheryl Martin
Florida Public Utilities Company
P.O. Box 3395
West Palm Beach, FL 33402-3395

Paul Lewis
Progress Energy Florida, Inc.
106 E. College Ave., Suite 800
Tallahassee, FL 32301-7740

Gary Sasso, Esq.
J. Walls, Esq.
D. Triplett, Esq.
Caarlton Fields Law Firm
P.O. Box 3239
Tampa, FL 33601-3239

Norman H. Horton, Jr., Esq.
Fred R. Self, Esq.
Messer, Caparello & Self, P.A.
P.O. Box 15579
Tallahassee, FL 32317

James Beasley, Esq.
Lee Willis, Esq.
Ausley Law Firm
P.O. Box 391 Tallahassee, FL 32302

Paula K. Brown
Regulatory Affairs
Tampa Electric Company
P.O. Box 111
Tampa, FL 33601-0111

R. Wade Litchfield, Esq.
Associate General Counsel
John T. Butler, Esq.
Senior Attorney
Florida Power & Light Company
700 Universe Boulevard
Juno Beach, FL 33408-0420

Bill Walker
Florida Power & Light
215 S. Monroe St., Suite 810
Tallahassee, FL 32301-1859

Jeffrey A. Stone, Esq.
Russell A. Badders, Esq.
Steen R. Griffin, Esq.
Beggs & Lane
P.O. Box 12950
Pensacola, FL 32591

Susan D. Ritenour,
Richard McMillan
Gulf Power Company
One Energy Place
Pensacola, FL 32520-0780

James W. Brew, Esq.
Brickfield, Burchette, Ritts & Stone, P.C.
1025 Thomas Jefferson St. NW
8th Floor, West Tower
Washington, DC 2007-5201

John T. Burnett, Esq.
Post Office Box 14042
St. Petersburg, FL 33733

Florida Retail Federation
100 E. Jefferson Street
Tallahassee, FL 32301

/Cecilia Bradley
Cecilia Bradley