

VOTE SHEET

July 10, 2007

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.

Issue 1: Did PEF act prudently in purchasing coal for Crystal River Units 4 and 5 beginning in 1996 and continuing to 2005?

Primary Recommendation: No. PEF did not act prudently in purchasing coal for CR4 and CR5 during the period 2001 through 2005. As discussed in Issues 2 and 4, the Commission should require PEF to refund to customers the amount of \$12,453,457, plus interest. In addition, the Commission should direct PEF to supplement its 2006 Final True-Up Testimony in Docket No. 070001-EI to address whether the Company was prudent in its 2006 and 2007 coal purchases for CR4 and CR5.

DEFERRED

Alternative Recommendation: Yes. PEF acted prudently in purchasing coal for CR4 and CR5 during the period 1996 through 2005.

COMMISSIONERS ASSIGNED: All Commissioners

COMMISSIONERS' SIGNATURES

MAJORITY

DISSENTING

Five horizontal lines for majority signatures.

Five horizontal lines for dissenting signatures.

REMARKS/DISSENTING COMMENTS:

DOCUMENT NUMBER-DATE

05777 JUL 10 8

FPSC-COMMISSION CLERK

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**Issue 2:** If the Commission determines that PEF acted imprudently in its coal purchases, should PEF be required to refund customers for coal purchased to run Crystal River Units 4 and 5 during the time period of 1996 - 2005?

**Primary Recommendation:** If the Commission approves primary staff's recommendation on Issue 1, the Commission should require PEF to refund customers \$12,453,457, plus interest. In addition, the Commission should encourage the parties of Docket No. 070001-EI to address, in their projection testimony to be filed in September 2007, the issue of whether and how the Commission should conduct prudence reviews of fuel and purchased power costs approved for cost recovery in the fuel docket.

**Alternative Recommendation:** If the Commission approves the alternative staff recommendation on Issue 1, then this issue is moot. The Commission may address the issue of policy raised by Issue 2.

**Issue 3:** Under the circumstances of this case, does the Commission have the authority to grant the relief requested by OPC?

**Recommendation:** The Commission has the authority to grant the relief requested by OPC.

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**Issue 4:** If the Commission determines that PEF should be required to refund customers for coal purchased to run Crystal River Units 4 and 5, what amount should be refunded, and how and when should such refund be accomplished?

**Primary Recommendation:** If the Commission finds that PEF was imprudent in procuring fuel costs in 2003 - 2005 (Issue 1) and further finds that the Company should be required to make a refund to customers (Issue 2), then the Commission should require PEF to refund to PEF's ratepayers \$13,796,073 in excessive coal costs, SO2 allowance costs, and interest incurred during 2003, 2004, and 2005. Interest should continue to accrue until the refund has been completed. This refund should be made through the utility's 2008 fuel factors.

**Alternative Recommendation:** Consistent with the alternative staff's recommendation for Issue 1, staff does not recommend a refund.

**Issue 5:** If the Commission determines that PEF willfully violated any lawful rule or order of the Commission or any provision of Chapter 366, Florida Statutes, should the Commission impose a penalty on PEF, and what should be the amount of such penalty?

**Recommendation:** No. No party identified a rule, order or statute administered by the Commission that PEF failed to implement or comply with for the period 1996 through 2005. Therefore, the Commission should not impose any fines or penalties.

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**Issue 6:** Should this docket be closed?

**Recommendation:** The docket should be closed after the time for filing an appeal has run.