

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Fuel and purchased power cost
recovery clause with generating
performance incentive factor.

Docket No. 080001-EI

Submitted for Filing: June 16, 2008

**PROGRESS ENERGY FLORIDA'S RESPONSE TO FIPUG'S MOTION TO DISMISS
MID-COURSE PETITION**

Pursuant to Rule 28-106.204(4), F.A.C., Progress Energy Florida, Inc. ("PEF") hereby responds to FIPUG's Motion to Dismiss the FPL/PEF Rate Increase Petitions or to Grant Alternative Relief for the Protection of Customers (the "Motion"). PEF respectfully requests that the Commission summarily deny the Motion. In support of this response, PEF states as follows:

1. On May 30, 2008, PEF filed a petition for approval of mid-course correction to fuel cost recovery factors. PEF's petition complies with the mid-course correction process as established in Order 13694 and Order No. PSC-07-0333-PAA-EI. Order 07-0333 requires electric utilities to notify the Commission if a projected fuel cost over or under recovery exceeds 10%. PEF's mid-course correction proposes to collect a \$16,807,030 final under-recovery of 2007 fuel cost costs and a \$195,927,841 under-recovery of 2008 fuel costs that PEF projects based on current information, for a total projected under-recovery at the end of 2008 of \$212,822,859. PEF's calculation of the total under-recovery amount is consistent with, and was performed in accordance with, Order 07-0333. Notably, FIPUG's Motion alleges no deviation on PEF's part from the computational requirements of Order 07-0333.

2. Order 07-0333 states that a utility should notify the Commission when the total projected under-recovery exceeds 10% of the utility's current projection of the

Jurisdictional Fuel Revenue Applicable-to-Period (Schedule A-2, Line C3). PEF's total projected under-recovery for 2008 is more than 10% of the current projection of 2008 Jurisdictional Fuel Revenue Applicable-to-Period. Therefore, PEF is obliged by Order 07-0333 to notify the Commission of its under-recovery. PEF satisfied this obligation by filing the petition at issue in the Motion as soon as PEF was able to project the under-recovery.

3. FIPUG's Motion alleges no deviation from Order 07-0333 other than to quote out of context from a sentence in Order 07-033 about "actual" fuel costs. Read in context, however, the complete language in Order 07-0333 goes on to explain how to calculate the percentage deviation in fuel costs, which is the exact process that PEF used.¹ Once PEF's determines that the 10% threshold had been reached, FIPUG does not dispute PEF's obligation to report the projected under-recovery to the Commission. See Motion at 3.

4. Stated simply, PEF has properly petitioned for a mid-course correction, in accordance and compliance with Order 07-0333. The Motion alleges no deficiency that warrants dismissal, and other than the misplaced argument regarding "actual costs"

¹ That Order states: "Upon consideration, we determine that to ensure consistency in the electric utilities' interpretation of Commission Order Nos. 13694 and PSC-98-0691-FOF-PU on a prospective basis commencing June 1, 2007, the appropriate method to determine whether actual fuel costs are ten percent greater than or less than projected fuel costs is to divide the estimated End-of-Period Total Net True-up by the current period's total actual and estimated Jurisdictional Fuel Revenue Applicable-to-Period.

The estimated End-of-Period Total Net True-up represents the utilities' best estimate, using the most current projections, of what the actual balance will be on Schedule A-2 – Calculation of True-up and Interest Provision, Line C11, at the end of the current period less any previous periods' true-ups for which recovery has been deferred, by order, until after the current recovery period. The current period's total actual Jurisdictional Fuel Revenue Applicable-to-Period should be consistent with the amount reported in the Period-to-Date column on Schedule A-2, Line C3, and the estimated amount of Jurisdictional Fuel Revenue Applicable-to-Period should represent the most current projection of those amounts for future months in the current period."

discussed in Paragraph 3 above, FIPUG's motion acknowledges that PEF has followed proper procedure in filing its petition. Accordingly, FIPUG's motion to dismiss should be summarily denied.

5. The FIPUG Motion also asks in the alternative that the Commission hold a hearing before ruling on PEF's proposed mid-course correction. The Commission has not traditionally held hearings prior to ruling on mid-course corrections,² and it would be unnecessary and inappropriate to do so here. A hearing is unnecessary because, as is the case with other fuel costs revenues, the revenues collected pursuant to the mid-course correction are subject to review and true-up in the subsequent annual fuel clause hearings. Moreover, if it is the Commission's desire, FIPUG can be given the opportunity to present its views on PEF's mid-course correction at the agenda conference where the Commission rules on PEF Petition. A hearing would be inappropriate because it would work against one of the fundamental purposes of a mid-course correction, which is to adjust fuel costs recovery factors promptly to reflect major changes in projected fuel costs. Holding a hearing would delay implementation of the mid-course correction and likely would result in a substantial reduction in the number of months remaining in 2008 over which collection of the under-recovery could be spread.

6. The FIPUG Motion also asks that if a mid-course correction is approved, it be spread over 2009 as well as the remainder of 2008. The Commission should deny this request because deferring a portion of the mid-course correction for recovery in 2009 would likely contribute to another step-increase in customers' total bills at the beginning of 2009, which is inconsistent with the intent of the Commission's mid-course correction policy. Spreading the mid-course correction over seventeen months (the remainder of 2008

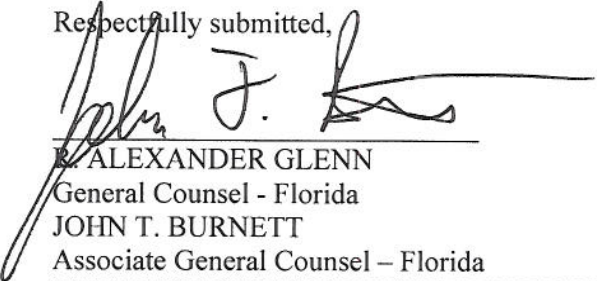
² See, e.g. Order No. PSC-07-0739-PCO-EI, Docket No. 070001-EI, dated September 17, 2007; Order No. PSC-03-0381-PCO-EI, Docket No. 030001-EI, dated March 19, 2003; Order No. PSC-01-0963-PCO-EI, Docket No. 010001-EI, dated April 18, 2001; Order No. PSC-02-0501-AS-EI, Docket Nos. 001148-EI/020001-EI, dated April 11, 2002; Order No. PSC-96-0907-FOF-EI, Docket No. 960001-EI, dated July 15, 1996; see also Order No. PSC-01-1665-PAA-EI, Docket No. 010001-EI, dated August 15, 2001 (explaining that the Commission's policy of reviewing and approving mid-course corrections without holding a hearing in advance of approval).

and all of 2009) rather than over the remaining five available months of 2008 would also result in a significant increase in the total interest charges incurred by customers on the outstanding under-recovery balance while it is being recovered.³

7. Finally, FIPUG's motion goes on to ask several rhetorical questions which indirectly question the Commission's policies on fuel hedging and on fuel cost recovery in general. These pontifications on existing Commission policies and procedures, however, provide no legal support for FIPUG's motion to dismiss or its alternative motion to abate and should be dismissed out of hand.⁴

WHEREFORE, PEF respectfully requests that the Commission deny FIPUG's Motion to Dismiss in its entirety and approve the mid-course correction as filed in PEF's petition.

Respectfully submitted,



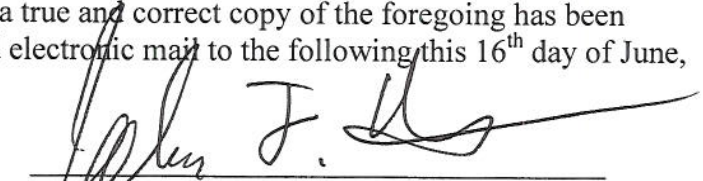
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³ Staff has issued informal data requests to PEF regarding the impact of such a delay, and PEF's responses to those requests illustrate this point.

⁴ FIPUG's motion also states that FIPUG "wonders" whether PEF may have asked for the mid-course correction at issue in an attempt to "delay" reporting requirements and to "conceal" rate increases related to the Nuclear Cost Recovery Clause. Unsupported rhetorical supposition, however, provides no legal support for FIPUG's motion, and this language also should be dismissed out of hand.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished via regular U.S. mail and electronic mail to the following this 16th day of June, 2008.



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