

**Ruth Nettles**

090079-EI

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**Sent:** Wednesday, September 02, 2009 12:01 PM  
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**Subject:** Electronic Filing - Docket 090079-EI  
**Attachments:** FRF.PHS.09-02-09.doc

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b. 090079-EI

In Re: Petition for Increase in Rates by Progress Energy Florida, Inc.

c. Document being filed on behalf of the Florida Retail Federation.

d. There are a total of 28 pages.

e. The document attached for electronic filing is the Prehearing Statement of the Florida Retail Federation.

(see attached file: FRF.PHS.9-2-09.doc)

Thank you for your attention and assistance in this matter.

Rhonda Dulgar  
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DOCUMENT NUMBER-DATE

09139 SEP-28

FPSC-COMMISSION CLERK

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Petition for Increase In )  
Rates By Progress Energy Florida, ) DOCKET NO. 090079-EI  
Inc. ) FILED: SEPTEMBER 2, 2009  
\_\_\_\_\_)

PREHEARING STATEMENT OF THE FLORIDA RETAIL FEDERATION

The Florida Retail Federation, pursuant to the Order Establishing Procedure in this docket, Order No. PSC-09-0190-PCO-EI, issued on March 27, 2009, hereby submits the Federation's Prehearing Statement.

APPEARANCES:

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On behalf of the Florida Retail Federation

1. WITNESSES:

The Florida Retail Federation is not sponsoring any witnesses in this proceeding.

2. EXHIBITS:

The Florida Retail Federation is not sponsoring any exhibits through the testimony of its own witnesses in this proceeding. The Federation has not yet identified exhibits that it intends to use in cross-examination, but the Federation reserves its rights to introduce exhibits through cross-examination.

DOCUMENT NUMBER-DATE

09139 SEP-28

FPSC-COMMISSION CLERK

### 3. STATEMENT OF BASIC POSITION

The core question to be addressed by the Commission in this proceeding is whether Progress Energy Florida ("PEF") needs any additional revenues in order to provide safe, adequate, reliable service, to recover its legitimate costs of providing such service, and to have an opportunity to earn a fair and reasonable return on its legitimate investment in assets used and useful in providing such service. The evidence shows that the answer to this question is unequivocally "No."

Progress's requested after-tax return on equity of 12.54% equates to a before-tax return greater than 20%. This is excessive and unjustified relative to current capital market conditions and relative to the minimal risks that PEF faces in its Florida operations.

Progress also has a huge depreciation reserve surplus, which means that PEF has collected roughly \$858 million more in depreciation expense than it needed to collect relative to the actual lives of its assets. This huge surplus has been created by current and previous customers, and the Commission must act to correct this overpayment by amortizing - flowing back - a substantial part of this huge surplus over the next 4 years. The evidence shows that PEF can accomplish this amortization without jeopardizing its financial integrity, and the fundamental principles of fairness, justice, and reasonableness require this action.

Progress has also overstated its projected depreciation expenses, and thus overstated its revenue needs for the 2010 test year. The Commission should reduce PEF's claimed revenue requirement to reflect this overstatement.

In summary, the combined evidence submitted by witnesses for the consumer parties in this case shows that PEF can provide safe, adequate, and reliable service while reducing its rates by approximately \$35 million per year. It is the utility's fundamental duty to provide safe, adequate, and reliable service at the lowest possible cost, and this fundamental principle requires that the Commission reduce PEF rates accordingly.

### 4. STATEMENT OF FACTUAL ISSUES AND POSITIONS

## COMPOSITE LIST OF ISSUES

ISSUE 1: Is the rate increase, requested by Progress Energy Florida, Inc., a just and reasonable rate for its customers and is it in the public interest?

FRF Position: No. The rate increase requested by PEF would result in rates that are excessive, unfair, unjust, unreasonable and contrary to the public interest of Florida.

## TEST PERIOD AND FORECASTING

ISSUE 2: Is PEF's projected test period of the twelve months ending December 31, 2010 appropriate?

FRF Position: Yes.

ISSUE 3: What are the appropriate inflation, customer growth, and other trend factors for use in forecasting?

FRF Position: No position at this time.

ISSUE 4: Are PEF's forecasts of customer growth, KWH by revenue class, and system KW for the projected test year appropriate?

FRF Position: No. (Tentative)

ISSUE 5: Are PEF's forecasts of billing determinants by rate class for the projected test year appropriate?

FRF Position: No. (Tentative)

## QUALITY OF SERVICE

ISSUE 6: Is the quality and reliability of electric service provided by PEF adequate?

**FRF Position:** Tentative - No. Based on the evidence presented to date in the customer service hearings, the quality and reliability of service provided by PEF is called into serious question. The FRF will take a definitive position after the final customer hearing on September 21, 2009.

#### **DEPRECIATION STUDY**

**ISSUE 7:** Should the current-approved depreciation rates, capital recovery schedules, and amortization schedules be revised?

**FRF Position:** Yes.

**ISSUE 8:** What are the appropriate capital recovery schedules?

**FRF Position:** The appropriate capital recovery schedules are those recommended by witness Jacob Pous on behalf of the Citizens of the State of Florida.

**ISSUE 9:** Is PEF's calculation of the average remaining life appropriate?

**FRF Position:** No. PEF's calculations are inappropriate and result in overstatement of depreciation expense by \$13,977,196.

**ISSUE 10:** What are the appropriate depreciation parameters (remaining life, net salvage percent, and reserve percent), amortizations, and resulting rates for each production unit, including but not limited to coal, steam, combined cycle, etc.?

**FRF Position:** The appropriate depreciation parameters are those recommended by witness Jacob Pous on behalf of the Citizens of the State of Florida.

**ISSUE 11:** What life spans should be used for PEF's coal plants?

**FRF Position:** Agree with OPC that the appropriate depreciation life span for PEF's coal units is 60 years.

**ISSUE 12:** What life spans should be used for PEF's combined cycle plants?

**FRF Position:** 40 years.

**ISSUE 13:** What are the appropriate depreciation parameters (remaining life, net salvage percent, and reserve percent), amortizations, and resulting rates for each transmission, distribution, and general plant account?

**FRF Position:** The appropriate depreciation parameters are those recommended by witness Jacob Pous on behalf of the Citizens of the State of Florida.

**ISSUE 14:** Based on the application of the depreciation parameters that the Commission has deemed appropriate to PEF's data, and a comparison of the calculated theoretical reserves to the book reserves, what are the resulting differences?

**FRF Position:** Based on Witness Jacob Pous's testimony and exhibits, PEF has a depreciation reserve excess of \$858 million.

**ISSUE 15:** What, if any, corrective reserve measures should be taken with respect to the differences identified in the Issue 14?

**FRF Position:** PEF's huge depreciation reserve indicates that current and recent-period customers have overpaid drastically relative to the true depreciation costs incurred by PEF, resulting in a gross inequity being imposed on those customers. The Commission should

remedy this gross inequity by amortizing 75% of the surplus, or \$646 million, over 4 years; limiting the amount of the surplus to be amortized will maintain PEF's financial integrity, taking account of all of the Citizens' witnesses' testimony, after reducing Progress's retail rates by \$35 million per year.

**ISSUE 16:** What should be the implementation date for revised depreciation rates, capital recovery schedules, and amortization schedules?

**FRF Position:** January 1, 2010.

#### **FOSSIL DISMANTLEMENT COST STUDY**

**ISSUE 17:** Should the current-approved annual dismantlement provision be revised?

**FRF Position:** No.

**ISSUE 18:** What, if any, corrective reserve measures should be approved?

**FRF Position:** Agree with OPC that if fossil dismantlement is addressed in this proceeding, PEF's costs should be reduced by 60%.

**ISSUE 19:** What is the appropriate annual provision for dismantlement?

**FRF Position:** Agree with OPC.

**ISSUE 20:** Are PEF's assumptions in the fossil dismantlement study with regard to site restoration reasonable?

**FRF Position:** No.

**ISSUE 21:** In future dismantlement studies filed with the Commission, should PEF consider alternative demolition approaches?

**FRF Position:** Yes. Agree with OPC that the Commission should order PEF to propose a more realistic approach and cost levels for terminal net salvage values in its next depreciation study.

**NUCLEAR DECOMMISSIONING COST STUDY**

**ISSUE 22:** Should the currently approved annual nuclear decommissioning accruals be revised?

**FRF Position:** No.

**ISSUE 23:** What is the appropriate annual decommissioning accrual in equal dollar amounts necessary to recover future decommissioning costs over the remaining life Crystal River Unit 3 (CR3)?

**FRF Position:** Agree with OPC that the Commission should not change PEF's nuclear decommissioning accrual.

**RATE BASE**

**ISSUE 24:** Has the company removed all non-utility activities from rate base?

**FRF Position:** No.

**ISSUE 25:** Should any adjustments be made to rate base related to the Bartow Repowering Project?

**FRF Position:** Agree with OPC.

**ISSUE 26:** Should an adjustment be made to reflect any test year or post test year revenue requirement impacts of "The



American Recovery and Reinvestment Act" signed into law by the President on February 17, 2009?

**FRF Position:** Agree with OPC.

**ISSUE 27:** Is PEF's requested level of Plant in Service for the projected 2010 test year appropriate?

**FRF Position:** No.

**ISSUE 28:** What adjustments, if any, should be made to accumulated depreciation to reflect revised depreciation rates, capital recovery schedules, and amortization schedules resulting from PEF's depreciation study?

**FRF Position:** Agree with OPC that accumulated depreciation should be reduced by \$112,883,411.

**ISSUE 29:** Is PEF's requested level of Accumulated Depreciation and Amortization in the amount of \$4,437,117,000 for the 2010 projected test year appropriate?

**FRF Position:** No.

**ISSUE 30:** Is PEF's requested level of CWIP - No AFUDC in the amount of \$151,145,000 for the projected 2010 test year appropriate?

**FRF Position:** Agree with OPC.

**ISSUE 31:** Is PEF's requested level of Plant Held for Future Use in the amount of \$25,723,000 for the projected 2010 test year appropriate?

**FRF Position:** No.

**ISSUE 32:** Is PEF's requested level of Nuclear Fuel - No AFUDC (net) in the amount of \$126,566,000 for the projected 2010 test year appropriate?

**FRF Position:** No. PEF has failed to justify its nuclear fuel balance for the test year, and accordingly, its nuclear fuel balance should be reduced by \$25,723,000.

**ISSUE 33:** Should an adjustment be made to PEF's requested storm damage reserve, annual accrual of \$14.9 million, and target level of \$150 million?

**FRF Position:** Yes. The Commission should order PEF to reduce its storm accrual to zero, because the current reserve balance is sufficient to cover the costs of non-catastrophic storms and because the company has available other means of addressing cost recovery in the event of catastrophic storms.

**ISSUE 34:** Should any adjustments be made to PEF's fuel inventories?

**FRF Position:** Agree with OPC.

**ISSUE 35:** Should unamortized rate case expense be included in Working Capital?

**FRF Position:** No.

**ISSUE 36:** Has PEF appropriately reflected the impact of SFAS 143 (Asset Retirement Obligations) in its proposed working capital calculation?

**FRF Position:** No.

**ISSUE 37:** Is PEF's requested level of Working Capital Allowance

in the amount of (\$9,041,000) for the projected test year appropriate?

FRF Position: No.

ISSUE 38: Is PEF's requested level of Rate Base in the amount of \$6,238,617,000 for the 2010 projected test year appropriate?

FRF Position: No. Consistent with the recommendations of the Citizens' witnesses, PEF's rate base should be \$6,348,626,000.

#### COST OF CAPITAL

ISSUE 39: What is the appropriate amount of accumulated deferred taxes to include in the capital structure for the projected test year?

FRF Position: \$329,399,000.

ISSUE 40: What is the appropriate amount and cost rate of the unamortized investment tax credits to include in the capital structure for the projected test year?

FRF Position: \$4,991,000; appropriate cost rate of 7.84%.

ISSUE 41: Should PEF's requested pro forma adjustment to equity to offset off-balance sheet purchased power obligations be approved?

FRF Position: No.

ISSUE 42: What is the appropriate equity ratio that should be used for PEF for purposes of setting rates in this proceeding?

FRF Position: 50%.

**ISSUE 43:** Have rate base and capital structure been reconciled appropriately?

**FRF Position:** Agree with OPC.

**ISSUE 44:** What is the appropriate capital structure for the projected test year?

**FRF Position:** The appropriate capital structure for PEF in this case is that recommended by Dr. J. Randall Woolridge, witness for the Citizens of the State of Florida.

**ISSUE 45:** What is the appropriate cost rate for short-term debt for the projected test year?

**FRF Position:** 3.06%.

**ISSUE 46:** What is the appropriate cost rate for long-term debt for the projected test year?

**FRF Position:** 6.05%.

**ISSUE 47:** What is the appropriate return on equity (ROE) for the projected test year?

**FRF Position:** 9.75%.

**ISSUE 48:** What is the appropriate weighted average cost of capital including the proper components, amounts, and cost rates associated with the projected capital structure?

**FRF Position:** 7.533%.

NET OPERATING INCOME

ISSUE 49: Is PEF's projected level of total operating revenues in the amount of \$1,517,918,000 for the 2010 projected test year appropriate?

FRF Position: No.

ISSUE 50: What are the appropriate adjustments to reflect the base rate increase for the Bartow Repowering Project authorized in Order No. PSC-09-0415-PAA-EI?

FRF Position: Agree with OPC.

ISSUE 51: Has PEF made the appropriate test year adjustments to remove conservation revenues and expenses recoverable through the Conservation Cost Recovery Clause?

FRF Position: Agree with OPC.

ISSUE 52: Has PEF made the appropriate test year adjustments to remove fuel and purchased power revenues and expenses recoverable through the Fuel and Purchased Power Cost Recovery Clause?

FRF Position: Agree with OPC.

ISSUE 53: Has PEF made the appropriate test year adjustments to remove capacity revenues and expenses recoverable through the Capacity Cost Recovery Clause?

FRF Position: Agree with OPC.

**ISSUE 54:** Has PEF made the appropriate test year adjustments to remove environmental revenues and expenses recoverable through the Environmental Cost Recovery Clause?

**FRF Position:** Agree with OPC.

**ISSUE 55:** Has PEF made the appropriate adjustments to remove charitable contributions?

**FRF Position:** Agree with OPC.

**ISSUE 56:** Has PEF made the appropriate adjustments to remove Aviation cost for the test year?

**FRF Position:** Agree with OPC.

**ISSUE 57:** Should an adjustment be made to advertising expenses?

**FRF Position:** Agree with OPC.

**ISSUE 58:** Has PEF made the appropriate adjustments to remove lobbying expenses?

**FRF Position:** Agree with OPC.

**ISSUE 59:** Is PEF's proposed allowance of \$2,412,100 for directors and officers liability insurance appropriate?

**FRF Position:** No.

**ISSUE 60:** Is PEF's proposed allowance of \$3,669,000 for 2010 injuries and damages expense appropriate?

**FRF Position:** No.

ISSUE 61: Is PEF's proposed allowance of \$23,228,000 for 2010 A&G office supplies and expenses appropriate?

FRF Position: No.

ISSUE 62: Should an adjustment be made to PEF's proposed 2010 allowance for O&M expense to reflect productivity improvements, if any?

FRF Position: Yes,

ISSUE 63: Should an adjustment be made to PEF's requested level of salaries and employee benefits for the 2010 projected test year?

FRF Position: Yes.

ISSUE 64: Are PEF's proposed increases to average salaries for 2010 appropriate?

FRF Position: No. Agree with OPC that PEF's proposed increase of 4.7% in base salaries is excessive in light of current labor market conditions and in light of the current bleak state of the economy.

ISSUE 65: Are PEF's proposed increases in employee positions for 2010 appropriate?

FRF Position: No.

ISSUE 66: Should the proposed 2010 allowance for incentive compensation be adjusted?

FRF Position: Yes. Agree with OPC that PEF's proposed

incentive compensation amount of \$25,371,639 and PEF's proposed \$12,094,011 for long-term incentive compensation should be disallowed.

**ISSUE 67:** Should the Company's proposed 2010 allowance for employee benefit expense be adjusted?

**FRF Position:** Yes. Agree with OPC that PEF's employee benefit expense should be reduced by \$9,376,809.

**ISSUE 68:** Should an adjustment be made to the accrual for property damage for the 2010 projected test year?

**FRF Position:** Agree with OPC.

**ISSUE 69:** Should an adjustment be made to PEF's 2010 generation O&M expense?

**FRF Position:** Yes. PEF's Power Operations Expense should be reduced by \$17,741,309.

**ISSUE 70:** Should an adjustment be made to PEF's 2010 transmission O&M expense?

**FRF Position:** Yes. PEF's Transmission expenses should be reduced by \$2,055,188.

**ISSUE 71:** Should an adjustment be made to PEF's 2010 distribution O&M expense?

**FRF Position:** Yes.

**ISSUE 72:** THIS ISSUE HAS BEEN DROPPED.

**ISSUE 73:** What is the appropriate amount and amortization period for PEF's rate case expense for the 2010 projected



test year?

**FRF Position:** Rate case expense should be reduced by \$989,618.

**ISSUE 74:** Should an adjustment be made to bad debt expense for the 2010 projected test year?

**FRF Position:** Agree with OPC.

**ISSUE 75:** What adjustments, if any, should be made to the 2010 projected test year depreciation expense to reflect revised depreciation rates, capital recovery schedules, and amortization schedules resulting from PEF's depreciation study?

**FRF Position:** PEF's allowed depreciation expense should be reduced by \$113,112,961.

**ISSUE 76:** What is the appropriate amount of depreciation and fossil dismantlement expense for the 2010 projected test year?

**FRF Position:** The appropriate depreciation expense for PEF for 2010 is \$322,500,632. See positions on Issues 17 and 18.

**ISSUE 77:** What is the appropriate amount of nuclear decommissioning expense for the 2010 projected test year?

**FRF Position:** \$0.

**ISSUE 78:** What adjustments, if any, should be made to the amortization of End of Life Material and Supplies inventories?

**FRF Position:** Agree with OPC.

**ISSUE 79:** What adjustments, if any, should be made to the amortization of the costs associated with the last core of nuclear fuel?

**FRF Position:** Agree with OPC.

**ISSUE 80:** Should an adjustment be made to taxes other than income taxes for the 2010 projected test year?

**FRF Position:** Agree with OPC.

**ISSUE 81:** Is it appropriate to make a parent debt adjustment as per Rule 25-14.004, Florida Administrative Code?

**FRF Position:** Yes.

**ISSUE 82:** Should an adjustment be made to Income Tax expense for the 2010 projected test year?

**FRF Position:** Agree with OPC that this would be a fallout of decisions on other issues.

**ISSUE 83:** Is PEF's requested level of jurisdictional Total Operating Expenses in the amount of \$1,249,372,000 for the 2010 projected test year appropriate?

**FRF Position:** No.

**ISSUE 84:** Is PEF's projected net operating income in the amount of \$268,546,000 for the 2010 projected test year appropriate?

**FRF Position:** No.

**ISSUE 85:** Has PEF appropriately accounted for affiliated transactions? If not, what adjustment, if any, should be made?

**FRF Position:** No.

#### **REVENUE REQUIREMENTS**

**ISSUE 86:** What is the appropriate projected test year revenue expansion factor and the appropriate net operating income multiplier, including the appropriate elements and rates for PEF?

**FRF Position:** Agree with OPC.

**ISSUE 87:** Is PEF's requested annual operating revenue increase of \$499,997,000 for the 2010 projected test year appropriate?

**FRF Position:** No. This increase is excessive and unnecessary to enable PEF to provide adequate and reliable service and also unnecessary to enable PEF to attract needed capital. Granting PEF's requested increase would result in rates that are unfair, unjust, unreasonable, and contrary to the public interest.

#### **COST OF SERVICE AND RATE DESIGN**

**ISSUE 88:** Has PEF correctly calculated revenues at current rates for the projected test year?

**FRF Position:** No. See Issue 49.

**ISSUE 89:** Is PEF's proposed separation of costs and revenues between the wholesale and retail jurisdictions appropriate?

**FRF Position:** No position at this time.

**ISSUE 90:** What is the appropriate Cost of Service Methodology to be used to allocate base rate and cost recovery costs to the rate classes?

**FRF Position:** No position.

**ISSUE 91:** If the Commission approves a cost allocation methodology other than the 12 CP and 1/13th Average Demand, should all cost recovery factors be adjusted to reflect the new cost of service methodology?

**FRF Position:** No position.

**ISSUE 92:** How should any change in revenue requirements approved by the Commission be allocated among the customer classes?

**FRF Position:** Any decrease (or increase) in PEF's authorized revenue requirements should be allocated to the customer classes on the basis of an equal percentage decrease (or increase) to all base rates.

**ISSUE 93:** Is PEF's proposed treatment of unbilled revenue due to any recommended rate change appropriate?

**FRF Position:** No position.

**ISSUE 94:** Is PEF's proposed charge for Investigation of Unauthorized Use appropriate?

**FRF Position:** No position.

**ISSUE 95:** Should the Commission approve PEF's proposal to eliminate its IS-1, IST-1, CS-1, and CST-1 rate schedules and transfer the current customers to otherwise applicable rate schedules?

FRF Position: No.

ISSUE 96: Is PEF's proposal to grandfather certain terms and conditions for existing IS-1, IST-1, CS-1, and CST-1 customers transferred to the IS-2, IST-2, CS-2, and CST-2 under the combined IS and CS rate schedules appropriate?

FRF Position: No position.

ISSUE 97: Should PEF's proposal to close the RST-1 rate to new customers be approved?

FRF Position: No position.

ISSUE 98: Are PEF's proposed customer charges appropriate?

FRF Position: No. PEF's proposed customer charges should be reduced to reflect the reduction in revenue requirements identified by the Citizens' witnesses.

ISSUE 99: Are PEF's proposed service charges appropriate?

FRF Position: No. (Tentative)

ISSUE 100: Is PEF's proposed charge for Temporary Service appropriate?

FRF Position: No. (Tentative) PEF's proposed charges should be reduced to reflect the reduction in revenue requirements identified by the Citizens' witnesses.

ISSUE 101: Is PEF's proposed Premium Distribution Service charge appropriate?

**FRF Position:** No. (Tentative) PEF's proposed charges should be reduced to reflect the reduction in revenue requirements identified by the Citizens' witnesses.

**ISSUE 102:** THIS ISSUE HAS BEEN DROPPED.

**ISSUE 103:** Are PEF's proposed monthly fixed charge carrying rates to be applied to the installed cost of customer-requested distribution equipment, lighting service fixtures, and lighting service poles, for which there are no tariffed charges, appropriate?

**FRF Position:** No. The appropriate charges must reflect the Commission's final decisions on cost of equity capital and depreciation expense as those factors affect the carrying charge rates.

**ISSUE 104:** Are PEF's proposed delivery voltage credits appropriate?

**FRF Position:** No position.

**ISSUE 105:** Are PEF's power factor charges and credits appropriate?

**FRF Position:** No position.

**ISSUE 106:** Is PEF's proposed lump sum payment for time-of-use metering costs appropriate?

**FRF Position:** No position.

**ISSUE 107:** What is the appropriate method of designing time of use rates for PEF?

**FRF Position:** No position.

**ISSUE 108:** What are the appropriate charges under the Firm, Interruptible, and Curtailable Standby Service rate schedules?

**FRF Position:** The appropriate charges are those that reflect the reduction in revenue requirements identified by the Citizens' witnesses.

**ISSUE 109:** What is the appropriate level of the interruptible credit?

**FRF Position:** No position.

**ISSUE 110:** Should the interruptible credit be load factor adjusted?

**FRF Position:** No position.

**ISSUE 111:** What are the appropriate energy charges?

**FRF Position:** The appropriate energy charges are those that reflect the reduction in revenue requirements identified by the Citizens' witnesses.

**ISSUE 112:** What are the appropriate demand charges?

**FRF Position:** The appropriate demand charges are those that reflect the reduction in revenue requirements identified by the Citizens' witnesses.

**ISSUE 113:** What are the appropriate lighting charges?

**FRF Position:** The appropriate lighting charges are those that

reflect the reduction in revenue requirements identified by the Citizens' witnesses.

**ISSUE 114:** Should PEF's proposal to revise its Leave Service Active (LSA) provision (tariff sheet No. 6.110) be approved?

**FRF Position:** No position.

**ISSUE 115:** What is the appropriate effective date for PEF's revised rates and charges?

**FRF Position:** January 1, 2010.

#### **OTHER ISSUES**

**ISSUE 116:** Should any of the \$13,078,000 interim rate increase granted by Order No. PSC-09-0413-PCO-EI be refunded to the ratepayers?

**FRF Position:** Yes.

**ISSUE 117:** Should PEF be required to file, within 90 days after the date of the final order in this docket, a description of all entries or adjustments to its annual report, earnings surveillance reports, and books and records which will be required as a result of the Commission's findings in this docket?

**FRF Position:** Yes.

**ISSUE 118:** What are the appropriate guidelines for the pension fund regulatory asset?

**FRF Position:** Agree with OPC.

**ISSUE 119:** Does the creation of a regulatory asset and the deferral of pension expenses from a period covered by



the Stipulation approved by Order No. PSC-05-0945-S-EI to a future period violate the terms of the Stipulation and order?

FRF Position: Yes.

ISSUE 120: Does the creation of a regulatory asset and the deferral of pension expenses from a period covered by the Stipulation and order to a future period constitute retroactive ratemaking?

FRF Position: No position at this time, pending further legal analysis.

ISSUE 121: Does the creation of a regulatory asset and the deferral of pension expenses from a period covered by the revenue sharing provisions of the Stipulation and order to a future period result in double recovery of those expenses?

FRF Position: Agree with OPC.

ISSUE 122: Should this docket be closed?

FRF Position: Yes. After the Commission issues its order reducing Progress's rates as recommended by the Citizens' witnesses, and after that order has become final as a matter of law, this docket should be closed.

5. STIPULATED ISSUES:

None.

6. PENDING MOTIONS:

None other than motions for confidential protective orders.

7. STATEMENT OF PARTY'S PENDING REQUESTS OR CLAIMS FOR CONFIDENTIALITY:

The FRF has no pending requests or claims for confidentiality.

8. OBJECTIONS TO QUALIFICATION OF WITNESSES AS AN EXPERT:

The FRF does not expect to challenge the qualifications of any witness to testify, although the FRF reserves all rights to question witnesses as their qualifications as related to the credibility and weight to be accorded their testimony.

9. STATEMENT OF COMPLIANCE WITH ORDER ESTABLISHING PROCEDURE:

There are no requirements of the Order Establishing Procedure with which the Florida Retail Federation cannot comply.

Respectfully submitted this 2nd day of September, 2009.

*S/Robert Scheffel Wright*

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by electronic delivery and U.S. Mail this 2nd day of September, 2009, to the following:

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