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Subject: Letter to Commission Clerk-Revisions to OPC Testimony, Issues and Prehearing Statement
Attachments: Letter to Commission Clerk-Revisions to OPC Testimony, Issues and Prehearing Statement.docx.pdf

Electronic Filing

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b. Docket No. 110009-EI

In re: Nuclear Cost Recovery Clause

c. Documents being filed on behalf of Office of Public Counsel

d. There are a total of 9 pages.

e. The document attached for electronic filing is (Letter to Commission Clerk-Revisions to OPC Testimony, Issues and Prehearing Statement).

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 APA 1
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July 29, 2011

Ann Cole, Director
Office of Commission Clerk
Florida Public Service Commission
2540 Shumard Oak Blvd.
Tallahassee, FL 32399-0850

Re: Docket 110009-EI, In re: Nuclear Cost Recovery Clause - Revisions to OPC Testimony,
Issues and Prehearing Statement

Ms. Cole:

The OPC submits the following changes related to the testimony and positions filed in this case:

1. The OPC withdraws and strikes the portions of the prefiled testimony of Dr. William R. Jacobs, Ph.D, related to the Crystal River Nuclear Plant as follows:

Page i - Item III

Page 4 - The entire sentence on lines 7-8, ending with "...2012."

Page 5 - All of lines 8-12

Page 6 - All of Lines 11-25

Pages 7 - 9 All of these pages

Page 10 - All of Lines 1-4

Page 21 - All of Lines 10 -15

2. An errata for pages 6, 19, 20, 22 of Dr. Jacob's PEF testimony and an excerpt from the July 15, 2011 deposition transcript explaining those changes is attached hereto.

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3. Regarding the Memorandum of Law submitted on July 26, the OPC withdraws its request for a determination by the prehearing officer on proposed Issue 30 related to CR3 and all argument in support thereof. The OPC drops and dismisses Issue 30.
4. In the OPC's prehearing statement, the OPC makes the following changes:

Page 7, the last paragraph relating to CR3 that starts with "As to the CR3 uprate..." should be deleted entirely

Page 22, the OPC drops and dismisses its request to have Issue 30 and withdraws its position thereto

Page 22, in the OPC position on Issue 31, the last sentence should be revised to read:

The revenue requirement associated with this amount should be refunded to the customers who over-paid for PEF's mismanagement of the CR3 Uprate LAR.

Pages 22-23, in the OPC position on Issue 32, the last sentence beginning "Otherwise..." should be deleted.

Page 23, the OPC position on Issue 33 should be changed to "No Position."

Page 24, Issue 37, the OPC position on Issue 37 should be revised to delete the words "...and CR3 Uprate..." After "(Jacobs)" the following sentence should be added:

No recovery should be allowed for the revenue requirement associated with any disallowance associated with PEF's CR3 LAR uprate management.

Thank you for your consideration. Please feel free to call if you have any questions.

Respectfully submitted,



Charles J. Rehwinkel
Deputy Public Counsel

cc: All parties of record

Attachment

- 1 4. PEF's request for accelerated recovery of from the remaining deferred balance
2 should be denied.
- 3 5. To further minimize ratepayer impact in 2012, the costs associated with
4 negotiating the Final Notice to Proceed ("FNTP") or further amendments to the
5 EPC contract should be deferred for consideration for recovery until after the
6 receipt of the LNP COL.
- 7 6. PEF should have the burden of affirmatively demonstrating that it is not
8 considering further delays in the scheduled LNP Commercial Operation Date
9 ("COD").

10

11 **IV. THE CRYSTAL RIVER 3 EPU PROJECT**

12 **Q. PLEASE BRIEFLY DESCRIBE THE CRYSTAL RIVER UNIT 3 EXTENDED**
13 **POWER UPRATE PROJECT.**

14 A. As I described in my testimony last year, the CR3 Extended Power Uprate project is
15 supposed to add a total of 180 MWe to the existing plant. This would be
16 accomplished by increasing reactor power output and thus steam output, increasing
17 the size and efficiency of the steam turbine and generator and increasing the accuracy
18 of instrumentation in the plant's steam system. The project was planned to be carried
19 out in three phases. Phase 1 improved the steam plant measurement accuracy of
20 process parameters and allowed the power output to be increased by about 12 MWe.
21 These improvements were made in 2007 and were placed in service on January 31,
22 2008.

23 According to the initial plans, Phase 1 was to be followed by a Phase 2 that
24 would increase the capacity and efficiency of the turbine-generator and other non-
25 nuclear parts of the plant in a 2009 outage. This would make the plant more efficient

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1 determination as long as the Company can affirmatively demonstrate by a totality of
2 the facts and circumstances that it intends to build the LNP by 2021 and 2022. This
3 affirmative demonstration is necessary for the Commission to exercise some real-time
4 and forward looking monitoring of a project that has reached the \$1 billion mark and
5 is on its way to an ultimately customer borne overall cost of between \$22-25 billion
6 or more. As it stands today, the customers are on the hook for all of the \$1 billion
7 whether the plant ever enters commercial service. If the Commission only makes
8 reactive, after-the fact determinations of prudence, customers will be obligated to pay
9 even more as doubts persist or increase. The Commission should be flexible to the
10 evolving circumstances of large nuclear construction projects and exercise all of its
11 regulatory authority to protect customers from increased costs in times of increased
12 uncertainty.

13
14 **Q. WHAT IS OPC'S POSITION CONCERNING ACCELERATED RECOVERY**
15 **OF THE DEFERRED BALANCE AS RECOMMENDED BY MR. FOSTER?**

16 A. OPC objects to accelerated recovery of the remaining deferred balance. PEF is
17 requesting accelerated recovery of ~~\$115~~ \$5 million plus ~~the \$15.1 million in~~ carrying
18 charges associated with that \$55 million ~~the remaining deferred balance which was~~
19 ~~authorized by Order No. PSC-09-0783-FOF-EI, p. 38.~~ Order No. PSC-09-0783-FOF-
20 EI permits PEF "greater flexibility to manage rates" and allows PEF "to annually
21 reconsider changes to the deferred amount and recovery schedule...." However, the
22 Commission retains jurisdiction on whether to allow PEF to accelerate recovery of
23 the deferred amount. By Order No. PSC-09-0783-FOF-EI, the Commission approved
24 a deferral amount of \$273,889,606. Recovery, of that deferred amount started in
25 2010 and is scheduled to end in 2014. PEF is two years into a five year rate

1 mitigation plan, and is now seeking to accelerate recovery of the deferred amount.
2 ~~and collect the remaining deferred balance in one year.~~ This accelerated recovery in
3 one year would adversely affect PEF's customers. In these trying economic times for
4 PEF's customers, PEF should not be allowed to accelerate the recovery of this
5 deferred amount. In addition, PEF's intent to accelerate recovery of the remaining
6 deferred balance in 2012 may indicate that Progress Energy is not committed to the
7 LNP as discussed above. It may indicate that Progress Energy may consider
8 cancelling the LNP project once all the outstanding monies approved for recovery for
9 the LNP have been recovered from the customer. In other words, PEF may not wish
10 to cancel the LNP at this time while there are millions of dollars remaining to be
11 recovered.

12
13 **Q. PLEASE SUMMARIZE YOUR REASONS FOR OBJECTING TO**
14 **ACCELERATED RECOVERY OF THE DEFERRED BALANCE.**

15 A. In light of the lack of a demonstrable improved likelihood of the LNP being built in a
16 reasonable timeframe – if at all – I fundamentally do not believe it is reasonable for
17 customers' bills to be any higher than absolutely necessary. Therefore I recommend
18 against allowing PEF to accelerate the recovery of the deferred recovery amount.
19 Further reasons for not allowing the accelerated recovery are due to customers
20 already paying in rates for the following:

- 21 • The CR3 replacement steam generators' related revenue requirement. The
22 revenue requirement associated with these assets was included in base rates,
23 beginning January 1, 2010, even though the steam generators have not gone
24 into service due to the extended outage at CR3 caused by engineering and
25 construction activities overseen by PEF;

- 1 3. All preconstruction and construction costs not directly associated with
2 pursuing the COL should be deferred or determined to be unreasonable at
3 this time.
- 4 4. PEF's request for accelerated recovery of from the remaining deferred
5 balance should be denied.
- 6 5. To further minimize ratepayer impact in 2012, the costs associated with
7 negotiating the FNTP or further amendments to the EPC contract should be
8 deferred for consideration for recovery until after the receipt of the LNP
9 COL.
- 10 6. PEF should have the burden of affirmatively demonstrating that it is not
11 considering further delays in the scheduled LNP COD.

12

13 **Q. DOES THAT CONCLUDE YOUR TESTIMONY?**

14 **A. Yes, it does.**

1 A. That's correct.

2 Q. Is there anything in your testimony
3 that is not accurate or that needs to be
4 corrected today?

5 A. Yes. We've identified some changes
6 related to the accelerated recovery of the
7 deferred amount. We can go through those if
8 you wish.

9 Q. Certainly.

10 Can we go through those changes.

11 A. Sure. On page 6, line 1, the "of"
12 should be changed to from so that the sentence
13 reads PEF's request for accelerated recovery
14 from the remaining deferred balance should be
15 denied.

16 Q. And what is the reason for that
17 change?

18 A. My testimony as filed based on my
19 interpretation of Mr. Foster's testimony -- it
20 was my belief that PEF was requesting
21 accelerated of the entire remaining deferred
22 balance, and subsequently I've learned that
23 that's not correct. It's only a portion of
24 the deferred balances they're requesting to be
25 accelerated.

1 Q. Okay. Any additional corrections?

2 A. Yes. On page 19, line 17, the 115
3 million should be changed to 55 million. And
4 then that sentence should read -- and then the
5 15 million -- 15.1 million in should be
6 changed to the word "the."

7 So that line should read, requesting
8 accelerated recovery of \$55 million plus the
9 carrying charges associated with -- and then
10 the remainder of that sentence should read,
11 with that \$55 million, period.

12 And then beginning "with the
13 remaining deferred balance" on line 18, that
14 entire remainder of that sentence should be
15 deleted.

16 And then on page 20, line 1, after
17 recovery of the deferred amount, there should
18 be a period, and the remainder of that
19 sentence should be deleted.

20 And then line 5 -- let's see. Well,
21 the way I had it written the word "recover"
22 should be deleted and changed to accelerate
23 recovery of.

24 So it should read, In addition,
25 PEF's intent to accelerate recovery of the

1 remaining deferred balance may indicate, and
2 so forth.

3 And then one more on page 22,
4 line 4. As we did before, the "of" should be
5 changed to from.

6 And, again, all these are to
7 indicate that PEF is not requesting to
8 accelerate the remaining deferred balance,
9 only a portion of it.

10 Q. Thank you.

11 Is there anything else in your
12 testimony that is not accurate or that needs
13 to be corrected?

14 A. No.

15 Q. Did you understand when you prepared
16 your direct testimony that you were to prepare
17 and file testimony that included all of your
18 opinions regarding Progress's Levy Nuclear
19 Project and the CR3 Uprate Project?

20 A. Yes.

21 Q. Did you understand when you prepared
22 your testimony that you were to provide all
23 the factual bases or reasons for your opinions
24 regarding Progress's Levy Nuclear Project and
25 the CR3 Uprate Project?