

State of Florida



Public Service Commission

CAPITAL CIRCLE OFFICE CENTER • 2540 SHUMARD OAK BOULEVARD
TALLAHASSEE, FLORIDA 32399-0850

-M-E-M-O-R-A-N-D-U-M-

DATE: August 17, 2006

TO: Director, Division of the Commission Clerk & Administrative Services (Bayó)

FROM: Division of Economic Regulation (Slemkewicz, Maurey, Draper, Kummer)
Office of the General Counsel (Brubaker)

RE: Docket No. 041272-EI – Petition for approval of storm cost recovery clause for recovery of extraordinary expenditures related to Hurricanes Charley, Frances, Jeanne, and Ivan, by Progress Energy Florida, Inc..

AGENDA: 08/29/06 – Proposed Agency Action – Interested Persons May Participate

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Deason

CRITICAL DATES: None.

SPECIAL INSTRUCTIONS: None

FILE NAME AND LOCATION: S:\PSC\ECR\WP\041272.RCM.DOC
ATTACHMENTS NOT AVAILABLE ONLINE

Case Background

On April 26, 2006, Progress Energy Florida, Inc. (PEF or Company), the Office of Public Counsel (OPC), the Florida Industrial Power Users Group (FIPUG), the Florida Retail Federation (FRF), the AARP, Sugarmill Woods Civic Association, and Buddy L. Hansen filed a Stipulation and Settlement Agreement (Stipulation) to resolve the issues related to the replenishment of PEF's depleted storm reserve fund without the need for litigation.

Staff and the parties met on June 30, 2006, to discuss PEF's June 8, 2006, responses to staff questions concerning the various provisions of the Stipulation. PEF also submitted additional information in a letter dated July 18, 2006. Further clarifications and modifications

Docket No. 041272-EI

Date: August 17, 2006

were submitted in a letter dated August 10, 2006. This recommendation addresses the merits of the Stipulation and the Stipulation clarifications contained in the June 8, 2006, July 18, 2006, and August 10, 2006, letters. The Stipulation is attached hereto as Attachment A. PEF's responses to staff's data request, dated June 8, 2006, is attached hereto as Attachment B. PEF's July 18, 2006, letter is attached hereto as Attachment C. PEF's August 10, 2006, letter is attached hereto as Attachment D.

The Commission has jurisdiction over this matter pursuant to Sections 366.04, 366.05 and 366.06, Florida Statutes.

Discussion of Issues

Issue 1: Should the Commission approve the implementation of the proposed Stipulation and Settlement Agreement?

Recommendation: The Commission should approve the implementation of the proposed Stipulation and Settlement Agreement with Paragraph 3 modified to include a streamlined formal interim request procedure, an interim surcharge cap, a defined interim surcharge period, and a Paragraph 3 termination date. (Slemkewicz, Maurey, Draper, Brubaker)

Staff Analysis: On April 26, 2006, the parties filed a Stipulation and Settlement Agreement (Stipulation) to resolve the issues pending between the parties in this proceeding without the need for litigation. The Stipulation is attached hereto as Attachment A.

The major highlights contained in the Stipulation, as originally filed, are as follows:

- PEF will extend the current storm cost recovery surcharge for 12 months (August 2007 through July 2008). For residential customers using 1,000 kWh, the current charge is \$3.61.
- PEF will continue the \$6.0 million annual accrual to the storm reserve.
- Interest will be calculated on the after-tax balance of the storm reserve using a 30-day Dealer Commercial Paper rate equivalent to PEF's actual rating as published by the Federal Reserve.
- No definite amount for the replenishment of the storm reserve is set.
- PEF would be authorized to establish, at its option in perpetuity, an automatic interim surcharge of up to 80 percent of the claimed storm damage costs, subject to refund.
- The recovery period for each interim surcharge is not defined.
- The unrecovered storm costs will be carried as a debit (negative) balance in the storm reserve.
- Interest will be calculated on the after-tax balance of the deficiency using a 30-day Dealer Commercial Paper rate equivalent to PEF's actual rating as published by the Federal Reserve.
- Parties retain the right to contest the collection of any costs or amounts requested by PEF in subsequent proceedings, however, parties may not protest the implementation of the interim surcharge at the time of implementation.

- PEF retains the right to petition the Commission for cost recovery of any future damages and to replenish any storm reserve account either through securitization, surcharge, base rate relief or other cost recovery mechanism.
- The provisions of the Stipulation are contingent upon the approval of the Stipulation in its entirety by the Commission.

Most of the provisions are self-explanatory, but several of the provisions merit comment. These are as follows:

Paragraph 1: This provision extends the current surcharge for all rate classes (\$3.61 per 1,000 kWh for a residential customer) for 12 months through the last billing cycle in July 2008. The current surcharge is scheduled to expire following the last billing cycle for July 2007. PEF estimates that the extension of the current surcharge will generate approximately \$130.5 million in additional revenues. The additional funds will be used to replenish the storm reserve. PEF will also continue its \$6.0 million annual accrual to the storm reserve. Assuming that there are no charges against the reserve, PEF has estimated that the storm reserve balance would be \$146.1 million by July 31, 2008. Extending the current surcharge through July 2008 would allow PEF to fully recover its 2005 storm costs and end the surcharge period with a positive reserve balance.

As proposed, the Stipulation does not include any true-up provision for matching the revenues collected against any incurred costs. The extension of the surcharge is not intended to recover any specific amount of storm costs. In addition, the Stipulation does not establish any target level for the replenishment of the storm reserve. Therefore, it is not necessary to true-up the revenues. However, any additional storm costs charged to the storm reserve are still subject to audit and review. Any resulting adjustments would be credited or debited to the reserve as appropriate.

Paragraph 3: This provision provides that in the event that future storm claims exhaust the reserve account, PEF, at its own option, would be able to collect, subject to refund, an interim surcharge for up to 80 percent of the claimed costs for storm-recovery activities. The interim surcharge would be implemented upon 30 days notice to PEF's customers. As originally filed, PEF did not propose any limitation on the duration or amount of the interim surcharge. In its July 18, 2006, letter, PEF committed to limiting the amount of any initial automatic surcharge to 5 percent on a typical 1000 kWh residential bill over a recovery period not to exceed 24 months. Based on the current 1000 kWh residential bill of \$109.56, the maximum interim surcharge would be \$5.48. The resulting total residential bill would be \$115.04. PEF also proposed that the provisions of Paragraph 3 would apply only until the next filed rate case. In its August 10, 2006, letter, PEF further agreed that the implementation would not be automatic. Instead, a petition would be filed seeking implementation of an interim surcharge of up to 100 percent of the claimed deficiency.

If the Commission approves the Stipulation as originally filed, PEF would file tariff sheets with the Commission that provide the form of the notice that would be mailed to customers if PEF implements the interim surcharge. By approving the form of the notice that

would be mailed to customers, the Commission would essentially allow PEF to initiate, at a future date, an interim surcharge of an unspecified amount upon 30 days notice to its customers without further Commission review or approval.

At the June 30, 2006 meeting with the parties, staff expressed its concerns regarding the implementation of the 80 percent interim surcharge, especially the automatic implementation of potentially numerous and concurrent surcharges as well as the perpetual nature of the approval being sought. As a result of this meeting, PEF made additional commitments concerning the 80 percent interim surcharge in its July 18, 2006, letter as previously mentioned above.

Section 366.04, Florida Statutes, provides that the Commission has the jurisdiction to regulate and supervise each public utility with respect to its rates and service. Section 366.05, Florida Statutes, provides that the Commission has the power to prescribe fair and reasonable rates and charges by public utilities. Section 366.06, Florida Statutes, provides that a public utility shall not charge any rate not on file with the Commission, and that all applications for changes in rates shall be made to the Commission in writing under its rules and regulations. Furthermore, the Commission shall have the authority to determine and fix fair, just, and reasonable rates that may be charged by any public utility for its service.

As originally filed, Paragraph 3 of the Stipulation essentially delegates to PEF the Commission's statutory authority for authorizing a change in rates. However, the modifications presented in the August 10th letter provide that (1) PEF will not automatically implement an interim surcharge, (2) PEF will petition the Commission for implementation of an interim surcharge, (3) PEF will be allowed to request at least 80 percent, but as much as 100 percent, of the claimed deficiency, (4) the intervenors agree and will not oppose PEF's recovery of at least 80 percent of the claimed deficiency but reserve all their rights to support or challenge the interim surcharge recovery of the remaining 20 percent of the claimed deficiency, (5) per discussions with Commission staff, they will make every attempt to present this matter before the Commission within 45 days after filing absent extenuating circumstances, and (6) PEF will notice customers following the Commission's decision at agenda and will implement the interim surcharge 30 days following such customer notice (with the first billing cycle).

These modifications are similar in nature to the interim procedure which was approved in Order No. PSC-06-0601-S-EI, issued July 10, 2006, in Docket No. 060154-EI, In re: Petition for issuance of storm recovery financing order pursuant to Section 366.8260, F.S., by Gulf Power Company. The modified procedure requested in this docket and approved in Docket No. 060154-EI are substantially similar to the interim relief which was established by Order No. PSC-05-0187-PCO-EI, issued February 17 2005, in Docket No. 041291-EI, In re: Petition for authority to recover prudently incurred storm restoration costs related to 2004 storm season that exceed storm reserve balance, by Florida Power & Light Company.

Staff believes that PEF's August 10th modification utilizes a more reasonable vehicle which offers PEF the expedited interim relief it seeks, without abdicating the Commission's rate-setting authority. Upon a timely interim surcharge request by PEF, staff would make every effort to expedite the Commission's consideration of a requested interim surcharge within 45 days, absent any extenuating circumstances.

CONCLUSION: In staff's opinion, all of the provisions of the Stipulation, except for Paragraph 3, as originally filed, are a reasonable resolution of the issues regarding the replenishment of PEF's storm reserve. Staff believes that Paragraph 3, concerning the automatic 80 percent interim surcharge, is unnecessary and would effectively deprive the Commission of its statutory authority to review and authorize any change in PEF's rates and charges.

However, the clarifications and modifications presented in PEF's July 18, 2006, and August 10, 2006, letters concerning the automatic interim surcharge in Paragraph 3 resolve staff's concerns regarding the operation and implementation of the interim surcharge. Therefore, staff recommends that the Commission approve the Stipulation with Paragraph 3 modified by the clarifications and modifications presented in PEF's June 8, 2006, July 18, 2006, and August 10, 2006, letters.

Docket No. 041272-EI

Date: August 17, 2006

Issue 2: If the Commission approves the extension of the Storm Cost Recovery Surcharge, should PEF file a revision to Tariff Sheet No. 6.106?

Recommendation: Yes. (Draper)

Staff Analysis: PEF's current Storm Cost Recovery Surcharge factors are shown on Tariff Sheet No. 6.105 (Billing Adjustments) and are described on Tariff Sheet No. 6.106. The current description on Tariff Sheet No. 6.106 shows the expiration date of the Surcharge in July 2007 and states that it recovers storm costs for 2004. If the Commission approves the Stipulation including the provision to extend the current surcharge until the last billing cycle in July 2008, PEF should file a revised Tariff Sheet No. 6.106 to show the new expiration date and restate the purpose of the Surcharge. Tariff Sheet No. 6.105 does not need to be revised because the current factors will remain in effect through 2008 under the Stipulation.

Docket No. 041272-EI

Date: August 17, 2006

Issue 3: Should this docket be closed?

Recommendation: No. This docket should remain open to address the true-up of the actual storm restoration costs previously approved for recovery in this docket by Order No. PSC-05-0748-FOF-EI. That order also authorized that this docket be closed administratively once the staff has verified that the true-up is complete. (Brubaker)

Staff Analysis: This docket should remain open to address the true-up of the actual storm restoration costs previously approved for recovery in this docket by Order No. PSC-05-0748-FOF-EI. That order also authorized that this docket be closed administratively once the staff has verified that the true-up is complete.