

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

**In Re: Petition on behalf of Citizens
of the State of Florida to require
Progress Energy Florida, Inc. to
refund to customers \$143 million**

**DOCKET NO. 060658-EI
FILED: March 9, 2007**

ATTORNEY GENERAL'S POSTHEARING STATEMENT

Bill McCollum , Attorney General, State of Florida, submits this his posthearing statement as follows:

ISSUE 1: PEF did not act prudently in purchasing coal for Crystal River Units 4 and 5 beginning in 1996 and continuing to 2005.

PEF designed Crystal River Units 4 and 5 to burn a mixture of subbituminous coal. Such a design made the plant more expensive and that expense was passed along to their customers. PEF submitted applications for environmental permits and stated that the mixture of subbituminous coal was the most economical fuel to burn and that they planned and sought permission to burn this coal mixture in Crystal River Units 4 and 5. See Hearing Exhibit 25 and Sansom Direct, TR -83.

By 1996, the cost of the subbituminous coal had dropped, making it the most economical coal to burn. However, PEF's customers did not receive the benefit they had paid for because PEF had resubmitted applications for environmental permits and withdrawn their request to burn the subbituminous coal. This was a double blow to PEF's customers because they had paid for a more expensive plant to be built and now were paying for more expensive coal. Further, the subbituminous coal was better for the environment because it contained less sulphur, thus denying PEF's customers another benefit.

PEF's allegations that they never intended to burn subbituminous coal is rebutted by their own documents and the testimony of Mr. Weintraub who testified that they were again considering burning subbituminous coal. It cannot be merely a coincidence that the interest in burning the more economical subbituminous coal coincides with the decrease in the tax breaks which PEF was getting for burning synfuels purchased from their affiliates.

Pef's allegations that it was too dangerous to burn subbituminous coal near a nuclear plant is rebutted by their own early documents and the testimony that there was a problem burning bituminous coal early on but that they learned how to burn that more safely and the same could be done with the subbituminous coal by making sure the plant remained clean and dust-free.

Finally, PEF's argument that the subbituminous coal was not more economical is rebutted by the number of plants which burned this coal mixture during this time. Some of these plants went to great expense to retrofit their plants to burn this coal and to get out of existing contracts, demonstrating the great cost savings from use of the subbituminous coal.

The Office of the Attorney General adopts and supports the position of the Public Counsel on this issue.

ISSUE 2: The Office of the Attorney General adopts and supports the position of the Public Counsel on this issue.

ISSUE 3: The Office of the Attorney General adopts and supports the position of the Public Counsel on this issue.

ISSUE 4: The Office of the Attorney General adopts and supports the position of the Public Counsel on this issue.

ISSUE 5: The Attorney General takes no position on this issue.

ISSUE 6: The Office of the Attorney General adopts and supports the position of the
Public Counsel on this issue.

Respectfully submitted,

BILL McCOLLUM
ATTORNEY GENERAL

/s Cecilia Bradley
CECILIA BRADLEY
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of Attorney General Bill McCollum's Post Hearing Statement has been furnished by electronic mail and U.S. Mail on this 930th day of April, 2007, to the following:

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