

BEFORE THE PUBLIC SERVICE COMMISSION

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Petition for cost recovery through the fuel clause, by Progress Energy Florida )

) Docket No.: 070052-EI  
) Filed August 28, 2007

**FIPUG'S POSTHEARING STATEMENT OF ISSUES & POSITIONS**

In compliance with Orders No. PSC-07-0390-PCO-EI, rendered May 2, 2007 and Order No. PSC-07-0132-PCO-EI, rendered May 23, 2007, establishing the prehearing procedure in this docket, and prehearing Order No. PSC-07-0625-PHO-EI (CT) rendered July 31, 2007 the Florida Industrial Power Users Group files its post hearing statement of issues.

**BASIC POSITION**

FIPUG supports the nuclear plant uprate. FIPUG supports giving the Public Utility Holding company that owns PEF the opportunity to fully recover its investment in the nuclear plant plus a fair return on it. FIPUG opposes eliminating all risk for the holding company by using the fuel clause to require customers to guarantee that it will recover all of its nuclear uprate costs plus an exceptional after tax return on its investment.

**ISSUES AND POSITIONS**

**ISSUE 1:** Should the Commission authorize clause recovery of the prudent and reasonable costs of the following:

A. Phase 1 of PEF's CR3 Uprate Project?

**FIPUG POSITION:** \*No. The Commission has allowed utilities to avoid base rate cases when relatively small non fuel base rate expenditures are rapidly off set by fuel savings. That criterion doesn't apply to PEF's MUR obsolete instrumentation replacement. There is no base rate case to avoid. In 2005 after good faith negotiations in which consumers agreed to allow an

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automatic base rate increase in 2008 for Hines #2 & #4, PEF promised that it wouldn't file another base rate case for 4 years. This request to collect for a non fuel base rate expenditure through the fuel clause breaches PEF's promise.\*

B. Phase 2 of PEF's CR3 Uprate Project?

**FIPUG POSITION:** \*No. In 2005 PEF said it needed to build Hines 5 & 6 for reliability to meet sales growth. Today it predicts even greater sales growth, but has cancelled the Hines 5 & 6. It partially replaces these units with over 500 MW of new purchased power and the CR#3 uprate. Under its present plan it seeks guaranteed cost recovery rate increases to pay for these investments in capacity while it retains the increased base revenue from sales growth. PEF's seeks to shift investment risk from its holding company to Florida customers.\*

C. Phase 3 of PEF's CR3 Uprate Project, including:

1. Nuclear Core Modifications, Secondary Systems, and Other Project-related Plant Additions/Modifications?

**FIPUG POSITION:** \*No. CR#3 is 30 years old. The investment in the nuclear plant has been fully returned to the utility through a depreciation charge included in base rates. Customers are still paying that charge plus a return on the investment in CR#3 and taxes on that return. In 2006 the cash flow from base revenues provided sufficient cash flow to pay a dividend to the holding company, all taxes, operating expenses and 116% of the costs of current construction. Whether PEF needs a rate increase to pay for these uprate modifications or whether the increase is to enhance profit remains unanswered.\*

2. The "point of discharge" cooling solution?

**FIPUG POSITION:** \*No. \*OPC points out that these future costs are estimated to be large. They are uncertain; they are not volatile; they are not fuel-related; they are neither new nor innovative. The additional capacity to be provided by the cooling tower improvement is needed by PEF to meet its projected peak demands and to maintain the required reserve margins. The expenditures do not meet the essential requirements of order 14546. There is no rational reason to lock in entitlement to guaranteed cost recovery before the plans are complete, the money has been invested and prudence determined.\*

3. Transmission upgrades associated with the CR3 Uprate Project?

**FIPUG POSITION:** \*No. The Commission Staff review of 2006 ten year site plans filed under the requirements of §186.801 *Florida Statutes* and Commission Rule 25-22.07 found problems with the North Florida transmission line near the Georgia boundary where PEF imports power under its purchased power contracts. This case proposes to spend \$83 million to upgrade that particular line on the grounds that if CR#3 has a forced outage other utilities must fill the power gap. The line is 100 miles north of CR#3. This non fuel cost expenditure is unnecessary. Demand side management cures the perceived problem at no cost to PEF.\*

4. Other costs associated with phase 3 of the CR3 Uprate Project?

**FIPUG POSITION:** No all of these costs are typical base rate charges.

**ISSUE 2:** If the Commission authorizes clause recovery of the CR3 Uprate Project, which cost recovery clause, fuel or capacity, is appropriate for capitalized costs attributable to the uprate?

**FIPUG POSITION:** \*No. The non fuel costs at issue are properly classified as demand related. It would result in cost shifting because demand-related costs would be recovered on a kWh basis. Some opine that high load factor customers will receive greater fuel savings because they have more off peak consumption, but PEF uses average costs not real time costs to assess its fuel factor. Grocery stores and large industry will not receive benefits commensurate with the price they pay.

**ISSUE 3:** If the Commission authorizes clause recovery of the CR3 Uprate Project, what capital recovery periods should the Commission prescribe for the assets?

**FIPUG POSITION:** \* the useful life of the rate base additions, 36 years for the power plant 40 years for the transmission lines.\*

**ISSUE 4:** Based on the recovery periods prescribed for the CR3 Uprate Project assets, what ratemaking adjustments, if any, are necessary?

**FIPUG POSITION:** \*Agree with OPC.\*

**ISSUE 5:** If the Commission authorizes PEF clause recovery of the CR3 Uprate Project, what return on investment should the Commission authorize PEF to include?

**FIPUG POSITION:** \*Evidence in the record discloses that under its proposal PEF will receive a 13.19% after tax return on equity. This is a before income tax return of over 20%. These are income taxes that the utility conglomerate may not have to pay. Because the recovery is guaranteed and all risk is eliminated and because the return is recalculated every year the return should be no greater than the return on US Treasury notes. The risk guaranteed by two million customers is substantially the same as "risk free" treasury investments.\*

**ISSUE 6:** If the Commission authorizes clause recovery of the CR3 Uprate Project, how should the costs associated with the project be allocated between wholesale and retail jurisdictions for rate recovery purposes?

**FIPUG POSITION:** \*In accordance with the projected wholesale sales shown in the filed ten year site plans, approximately 12% to 15% are made to the wholesale market. In addition if there are any co owners of the CR # 3 these owners should make the appropriate contribution.\*

**ISSUE 7:** If the Commission authorizes clause recovery of the CR3 Uprate Project, what reports, if any, should PEF be required to file with the Commission?

**FIPUG POSITION:** In the cost recovery dockets the Commission must analyze over \$11 billion in cost recovery items every year with only about 90 days study. No serious consideration can be given to the prudence of confidential capital expenditures by one utility without even the opportunity for reasonable discovery before intervenor testimony must be filed. The capital expenditures should be filed with the Commission staff at least nine months before recovery is sought.

**ISSUE 8:** Should this docket be closed?

**FIPUG POSITION:** \*Yes\*

**CERTIFICATE OF SERVICE**

I, **HEREBY CERTIFY** that a true and correct copy of the foregoing document sponsored by FIPUG has been furnished by electronic and regular mail this 2<sup>nd</sup> day of August, 2007, to the following:

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