

Kimberley Pena

060162

**From:** BECK.CHARLES [BECK.CHARLES@leg.state.fl.us]  
**Sent:** Thursday, April 05, 2007 8:37 AM  
**To:** Records Clerk  
**Subject:** FW: Substitution of Counsel

I would like to request that you substitute Charles J. Beck, Interim Public Counsel, for Harold McLean in any docket where Harold's name appears. Harold retired from the state on March 8.

Thanks. Please call me at 487-8240 if you have any questions.

Charlie Beck

**From:** Kimberley Pena [mailto:KPena@PSC.STATE.FL.US]  
**Sent:** Wednesday, April 04, 2007 11:23 AM  
**To:** BECK.CHARLES  
**Subject:** RE: Substitution of Counsel

Mr. Beck, below is the list of active dockets in which OPC is a Party of Record or Interested person. I have included the names in the attention line for your convenience. If you would like to make changes to the attention line, please forward your request(s) to [Clerk@psc.state.fl.us](mailto:Clerk@psc.state.fl.us) or you may fax it to 413-7118. Please let me know if I can be of any further help.

010492 Stephen C. Burgess  
 010503 Stephen Burgess/Charles Beck  
 041272 ✓Harold McLean/Patricia Christensen  
 041441 ✓Harold McLean/Rick Mann  
 050374 ✓H. McLean/C. Beck/P. Christensen  
 050958 ✓Harold McLean/Patricia Christensen  
 060038 ✓McLean/Beck/McGlothlin/Christensen  
 060122 ✓Harold McLean/Stephen C. Reilly  
 060162 ✓Harold McLean  
 060198 ✓Harold McLean  
 60253 ✓Harold McLean/Stephen Reilly  
 60256 ✓Harold McLean/Stephen C. Reilly  
 60257 ✓Harold McLean/Stephen C. Reilly  
 60258 ✓Harold McLean/Stephen C. Reilly  
 60260 ✓Harold McLean/Stephen Reilly  
 60261 ✓Harold McLean/Stephen Reilly  
 60262 ✓Harold McLean/Stephen Reilly  
 60285 ✓Harold McLean/Stephen Reilly  
 60300 ✓Harold McLean/Charles J. Beck  
 60368 Stephen C. Reilly  
 60598 ✓Harold McLean  
 60606 ✓Harold McLean  
 60638 ✓Harold McLean  
 60644 ✓Harold McLean/Charles J. Beck  
 60650 ✓Harold McLean/Patricia Christensen  
 60658 P. Christensen/C. Beck/J. McGlothlin  
 60677 ✓Harold McLean  
 60700 ✓Harold McLean

*Done  
 04/06/07  
 Kemp*

5/2007

060774 ✓Harold McLean  
 060811 ✓Harold McLean/Patricia Christensen  
 070001 C.Beck/P. Christensen/J.McGlothlin  
 070002 C.Beck/P. Christensen/J.McGlothlin  
 070003 ✓Harold McLean/Patricia Christensen  
 070007 C.Beck/P. Christensen/J.McGlothlin  
 070052 ✓H.McLean/P. Christensen/J.McGlothlin  
 070098 Charles Beck  
 070183 Stephen C. Reilly

Kim Peña  
 Chief Deputy Commission Clerk

Office of the Commission Clerk  
 Florida Public Service Commission  
 2540 Shumard Oak Blvd.  
 Tallahassee, FL 32399-0850  
 (850) 413-6770

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**From:** BECK.CHARLES [mailto:BECK.CHARLES@leg.state.fl.us]  
**Sent:** Wednesday, April 04, 2007 10:25 AM  
**To:** Kimberley Pena  
**Subject:** Substitution of Counsel

Kim, would you please send me a list of all pending dockets in which the Office of Public Counsel has intervened?

Thanks.

Charlie Beck

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Charles J. Beck  
 Interim Public Counsel

Office of Public Counsel  
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 Tallahassee, FL 32399-1400

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 fax: 850-488-4491  
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State of Florida



# Public Service Commission

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

RECEIVED-FPSC  
JUN 29 PM 1:39

**-M-E-M-O-R-A-N-D-U-M-** COMMISSION  
CLERK

**DATE:** June 29, 2006

**TO:** Division of the Commission Clerk and Administrative Services

**FROM:** Lisa C. Bennett, Attorney, Office of the General Counsel *LB*

**RE:** Docket No. 060162-EI - Petition by Progress Energy Florida, Inc. for approval to recover modular cooling tower costs through fuel cost recovery clause.

## PARTIES

Please place the responses to staff's data requests dated June 20, 2006, from R. Alexander Glenn, Progress Energy, Florida, in the correspondence section of the docket file for the above-referenced docket.

Thanks you.

LCB/jb

I:2006/060162/060162ccam1.lcb.doc

DOCUMENT NUMBER-DATE  
09117 OCT-4 5  
FPSC-COMMISSION CLERK



Writer's Direct Dial: (727) 820-5587

**R. Alexander Glenn**  
Deputy General Counsel

June 20, 2006

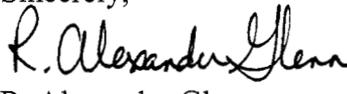
Ms. Lisa C. Bennett  
Division of General Counsel  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, Florida 32399-0850

Re: Petition to Recover Modular Cooling Tower Costs through the Fuel Cost  
Recovery Clause; Docket No. 060162-EC

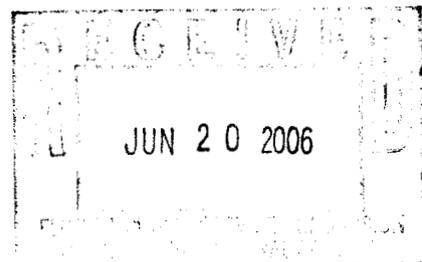
Dear Ms. Bennett:

Please find enclosed the answers of Javier Portuondo to the data request questions you sent me via email on June 16, 2006. Please let me know if these answers suffice to cancel Mr. Portuondo's deposition which was set for June 21<sup>st</sup>. Thank you for this opportunity and should you have any questions, please feel free to call me at the number listed above.

Sincerely,

  
R. Alexander Glenn *LMS*

RAG/lms  
Attachment



**PEF Responses to Staff's June 26, 2006 Data Request in Docket No. 060162-EC – Petition to Recover Modular Cooling Tower Costs through the Fuel Cost Recovery Clause**

**TOPIC: WHY WAS COST RECOVERY FOR THE COOLING TOWER PROJECT FILED IN THE FUEL INSTEAD OF THE ENVIRONMENTAL DOCKET?**

1. Please explain why, since this project is in response to an environmental requirement, PEF chose to file for cost recovery of the cooling tower project in the fuel and purchased power recovery clause?

**PEF Response:**

PEF believes that this project is appropriately recoverable through the fuel and purchased power cost recovery clause. There was a changing environmental condition – namely, rising temperatures in the Gulf of Mexico that, at times, resulted in the de-rating of Crystal River generating units. By implementing this project, PEF will reduce fuel costs to customers through a greater use of coal versus other fossil fuels or purchased power.

2. Do the cooling towers qualify for cost recovery through the ECRC? Explain why or why not.

**PEF Response:**

Based on our interpretation of the 1994 Gulf Power Order, PEF did not seek recovery through the ECRC. It is our understanding that an environmental project must be required by a new environmental law or regulation, enacted or whose effect was triggered after the company's last test year upon which rates are based. Since PEF's Crystal River NPDES permit has been in place since 1988 and because the project will generate fuel savings, as noted above, PEF believes the project is more appropriately recovered through the Fuel clause.

3. If the decision that this project would not qualify for recovery through the ECRC was based upon a prior Commission order, discuss your interpretation of the Order and reference the specific portions of the order the decision was based upon.

**PEF Response:**

Please see response to question 2. In addition, please see Commission Order No. PSC-94-0044-FOF-EI where the Commission stated:

“We find that the following policy is the most appropriate way to implement the intent of the environmental cost recovery statute:

Upon petition, we shall allow the recovery of costs associated with an environmental compliance activity through the environmental cost recovery factor if:

1. such costs were prudently incurred after April 13, 1993;
2. the activity is legally required to comply with a governmentally imposed environmental regulation enacted, became effective, or whose effect was triggered after the company's last test year upon which rates are based; and,
3. such costs are not recovered through some other cost recovery mechanism or through base rates.

In addition, we shall consider that all costs associated with activities [\*13] included in the test year of the utility's last rate case are being recovered in base rates unless there have been new legal environmental requirements which change the scope of previously approved activities and caused costs to change from the level included in the test year. If new legal requirements cause an increase, or decrease, in costs from the level included in the test year of the utility's last rate case, the amount recovered through base rates should be the determined to be the amount included in the test year."

**TOPIC: SHOULD PEF HAVE BEEN REASONABLY AWARE OF, OR BEEN ABLE TO ANTICIPATE THE NEED FOR, ADDITIONAL COOLING TOWERS PRIOR TO THE 2005 RATE SETTLEMENT (Docket No. 050078-EI)? SHOULD PEF HAVE BEEN ABLE TO INCLUDE THESE COSTS IN NEGOTIATIONS FOR SETTLEMENT OF ITS 2005 RATE PROCEEDING (Docket No. 050078-EI)?**

4. Was PEF annually de-rating its Crystal River 1 and 2 units attributable to thermal limits imposed by DEP from 2003 through 2005?

**PEF Response:**

The de-ratings from 2003-2005 were based on the thermal limits originally imposed or established by the DEP through the NPDES permit dated September of 1988.

4. Was PEF able to maintain DEP Compliance for each of these years by de-rating Crystal River units 1 and 2?

**PEF Response:**

Yes.

5. Would it be a correct statement that since the cooling tower docket was filed in 2006, that PEF considered the level of derates in 2003 and 2004 acceptable, but the 2005 derate level was not acceptable and thus the basis for this docket? If not, explain.

**PEF Response:**

No, these levels were not acceptable and in fact the company was closely monitoring the situation (including the warming trend of the Gulf of Mexico); however, we were unsure whether these effects were permanent or temporary in nature. It was following the 2005 summer de-rating that it became apparent to PEF that if an alternative approach could be found that permitted the coal plants to operate rather than having to rely on higher cost fossil fuels or purchased power, the customers could capture the fuel savings through the fuel clause. Given the uncertainty of whether this was a permanent issue, the solution needed to be as low cost as possible until further analysis could be conducted and to maximize the fuel savings.

6. At what point during the summer of 2005, did PEF determine that the level of de-rates was no longer acceptable? Was there a specific event leading to this determination?

**PEF Response:**

It was not so much a specific point in time or specific event that lead to our determination that we could capture fuel savings if an alternative could be found, but rather a pattern that was becoming more apparent.

7. At what point (month and year) did PEF determine that additional cooling capacity would be needed?

**PEF Response:**

Given the analysis that was required to evaluate this issue, there was not a specific month, but rather a determination that spanned over the fourth quarter of 2005.

8. What was the date of issuance of the RFP for the modular cooling project?

**PEF Response:**

The RFP was issued 11/21/05 and the pre-bid meeting was held 12/2/05.

9. What was the date PEF applied for its Air Construction permit with DEP?

**PEF Response:**

PEF transmitted the application to FDEP on February 3, 2006, which FDEP received on February 6, 2006.

10. The petition for your 2005 rate case was filed on April 29, 2005 and the stipulation agreement was signed on August 29, 2005. On what date did settlement negotiations begin?

**PEF Response:**

Settlement discussions occurred throughout the April to August time frame.

11. Were the costs of the Modular cooling towers discussed in the settlement negotiations in Docket No. 050078-EI?

**PEF Response:**

No. PEF had not identified this project or the opportunity to capture fuel savings for the customer until after the settlement agreement was finalized.

12. If the answer to the previous question is no, why not?

**PEF Response:**

The reason that this was not discussed was that it was not known to be an opportunity to capture fuel savings for the customer until after seeing the impact from the 2005 summer months, which occurred after the settlement agreement was finalized. Additionally, the required research to analyze the best approach to address the situation, including technology selection, took additional time.

13. What lead time would have been needed to include the cost of the cooling towers in settlement negotiations?

**PEF Response:**

Lead time was not the issue, but rather PEF needed the passage of time necessary to gather the data and analyze the development of a trend.

14. If PEF understood Crystal River Units 1 and 2 would need additional cooling capacity to avoid significant de-rates prior to the settlement agreement in Docket No 050078-EI, why is it appropriate to seek recovery in the Fuel and Purchased power clause?

**PEF Response:**

As discussed above, PEF did not know of this project or the opportunity to capture fuel savings for the customer prior to the settlement agreement in Docket No. 050078-EI.

**TOPIC: WHAT IS THE BASIS FOR PEF'S DECISION THAT THE COOLING TOWER PROJECT IS ELIGIBLE FOR COST RECOVERY THROUGH THE FUEL CLAUSE BASED UPON ORDER NO. 14546? WHY SHOULD COOLING TOWERS BE CONSIDERED A FOSSIL FUEL RELATED COST?**

15. On p. 4 of your testimony you include a section of Order No. 14546 relating to the recovery of unanticipated fossil fuel-related costs which result in fuel savings. Is this section the basis for PEF seeking cost recovery of the cooling towers through the fuel clause?

**PEF Response:**

Yes. Through this project PEF will be able to capture for customers the benefits of coal fueled generation versus the alternative replacement power options of oil, gas or purchased power.

16. This section of Order No. 14546, specifies recovery of fossil fuel related costs. How does PEF define fossil fuel related costs and what is PEF's rationale for considering cooling towers as a fuel related cost?

**PEF Response:**

As with other projects approved by the FPSC, it is not recovery of a fossil fuel related cost that is being recovered, but rather the underlying capital or operating cost necessary to achieve a fossil fuel saving for customers through the fuel clause. For example, the FPSC approved numerous capital projects for the conversion of combustion turbines necessary to allow them to burn oil as well as gas. In those approvals the Commission was authorizing the recovery of capital costs that would permit the creation of fuel savings. It is the creation of these fossil fuel savings that make the capital costs fossil fuel related costs.

17. On p. 4 of your testimony, you include prior orders of the Commission approving cost recovery based upon Order No. 14546. A review of these orders shows approval of costs related to the purchase of rail cars for coal delivery, conversion of plants to burn natural gas and plant conversions to burn a more economical grade of residual fuel oil. Do you agree that these projects are more directly fuel related than cooling towers?

**PEF Response:**

No. In all the examples provided the costs being recovered are no different than the cooling tower project that we have proposed. In each instance dollars are being spent for the purpose of capturing fuel savings for the customer.

18. If, for example, PEF were to consider a project which would significantly reduce line loss in the transmission and distribution systems resulting in fuel savings. Would PEF consider this project to be a fuel related cost eligible for fuel clause cost recovery?

**PEF Response:**

Yes. In fact, the Commission Staff itself on numerous occasions has inquired of the company about such projects and that if such projects could be found they would be recoverable to the extent of fuel savings consistent with Order No. 14546. Again, Commission Order No. 14546 was designed to encourage IOUs to identify ways in which fuel savings can be captured which would accrue to customers through the fuel cause without the disincentive of having to absorb such costs until a future base rate proceeding. This policy is well balanced and protects the customers because costs can only be included for recovery to the extent savings are demonstrated, thus resulting in no increase in fuel rates to customers over the term of the recovery.

19. Do you perceive a bright line on what is or isn't a fuel related cost or is it PEF's belief that the existence of fuel savings makes the cost of any project fuel related? If a bright line exists, discuss what it is and why.

**PEF Response:**

A "bright line" on what is a fuel related cost does not necessarily exist. As discussed in prior responses, it is the underlying intent of the Commission's Order to create an environment where fuel savings could be captured quickly and the cost necessary to achieve those saving could be funded by those savings, thereby not creating a disincentive for IOUs to undertake such beneficial projects.

20. On P. 3 line 8 of your testimony you state that the purpose of the project is to reduce fuel costs by minimizing de-rates. Isn't it reasonable to restate the purpose of the project as a project to restore unit/system summer reliability to its pre 2003 level which results in fuel cost savings?

**PEF Response:**

No. It is normal operating protocol for generation stations to operate at less than optimal output, at times, due to restrictions placed on them by environmental laws or regulations. The operation of the unit and system takes all these limitations into consideration in the dispatching of the system to assure that reliability is not compromised.

21. For this question, let's assume that all factors relating to the project remain the same with the exception that there are no fuel cost savings. Would implementing this project, which would lead to increased system reliability based upon increased availability of two base load units to meet summer peaks, still be a prudent economic decision which would benefit both PEF and its ratepayers?

**PEF Response:**

In this specific circumstance, it would not be a prudent economic decision to continue with the project if there were no fuel savings. In instances where generating stations are de-rated, there has been an appropriate counter-measure taken to replace that generation with an alternative facility or through purchased power. At no time has system reliability been at risk.