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Electronic Filing

a. Person responsible for this electronic filing:

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b. Docket No. 080009-EI

In re: Nuclear Cost Recovery Clause.

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

d. There are a total of 21 pages.

e. The document attached for electronic filing is the Prehearing Statement of the Office of Public Counsel.

(See attached file: 080009.prehearing statement.8.22.08.sversion.doc)

Thank you for your attention and cooperation to this request.

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FPSC-COMMISSION CLERK

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Nuclear Cost Recovery)
Clause.)
_____)

Docket No. 080009-EI

FILED: August 22, 2008

PREHEARING STATEMENT OF THE OFFICE OF PUBLIC COUNSEL

The Citizens of the State of Florida, through the Office of Public Counsel, pursuant to the Order Establishing Procedure in this docket, Order No. PSC-08-0211-PCO-EI-PCO-EI, issued March 31, 2008, hereby submit this Prehearing Statement.

APPEARANCES:

JOSEPH A. MCGLOTHLIN
Associate Public Counsel
STEPHEN C. BURGESS
Office of Public Counsel
c/o The Florida Legislature
111 West Madison Street, Room 812
Tallahassee, Florida 32399-1400
On behalf of the Citizens of the State of Florida.

1. **WITNESSES:**

Citizens prefiled testimony by the following witness:

William R. Jacobs, Jr. PH.D. In his testimony, Dr. Jacobs describes FPL's contracting practices. He testifies that, while FPL appropriately adopted competitive bidding as a standard, FPL departed from that standard and used single source and sole source contracts on numerous occasions without providing sufficient justification. Dr. Jacobs also testifies that FPL failed to demonstrate that the costs resulting from the departure of competitive bidding were reasonable.

Dr. Jacobs also recommends that the Commission require FPL and PEF to demonstrate that the costs they seek to recover in this docket in conjunction with their uprate activities would not

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have been required to maintain reliable service from the existing nuclear units in the absence of the uprate projects.

2. EXHIBITS:

Witness for Citizens prefiled the following exhibits:

William R. Jacobs, Jr. PH.D.

- (WRJ-1) Resume of William R. Jacobs, Jr., PH.D.
- (WRJ-2) Sole Source Justification (Example #1) (Confidential)
- (WRJ-3) Single Source Justification (Example #2) (Confidential)
- (WRJ-4) Sole Source Justification (Example #3) (Confidential)
- (WRJ-5) Single Source Justification (Example #4) (Confidential)
- (WRJ-6) Single Source Justification (Example #5) (Confidential)
- (WRJ-7) FPL's Benchmarking Spreadsheet (Confidential)
- (WRJ-8) FPL's Additional Cost Comparison for Large Contract on Spreadsheet (Confidential)

3. STATEMENT OF BASIC POSITION

The scope of Rule 25-6.0423, F.A.C. encompasses construction of new units and of projects to increase the output of existing units. It was not intended to apply to costs of maintaining existing nuclear units. FPL and PEF should be required to demonstrate, through an appropriate analysis, that the costs they seek to recover in conjunction with their uprate activities would not have been necessary to maintain reliable service from the existing units in the absence of the uprate projects.

The best means of ensuring that the utility does not incur unreasonably high costs is to

engage in competitive bidding prior to selecting a contractor. FPL adopted a standard of competitive bidding, but too frequently has departed from its standard without adequate justification. Also, FPL failed to demonstrate that the costs of certain contracts in which it entered without first seeking competitive bids are reasonable.

4. STATEMENT OF FACTUAL ISSUES AND POSITIONS

ISSUE 1A: Should Progress Energy Florida, Inc. and Florida Power & Light Company be allowed to recover through the Nuclear Cost Recovery Clause revenue requirements for a phase or portion of a system associated with a power plant, after such phases or portion of the project has been placed into commercial service, or should such phases or portion of the project be recovered through base rates?

OPC: Once the phase or portion has been placed in commercial service, the utility should recover the costs through base rates.

ISSUE 1B: If recovery of costs for a phase or portion of a system associated with a power plant that is in commercial service continues through the Nuclear Cost Recovery Clause, how should the revenue requirements for that phase or portion be determined?

OPC The revenue requirements should be determined in a manner analogous to the methodology used in a revenue requirements case.

ISSUE 1C: How should the completion of site clearing work be determined for purposes of distinguishing between pre-construction and construction costs for recovery under the clause?

OPC: The determination will be dependent on individual circumstances, and so must be considered on a case-by-case basis. However, OPC believes the determination would be based upon work related to the generating unit, and not related structures (such as transmission).

ISSUE 1D: Should a utility be required to inform the Commission of any change in

ownership or control of any asset which was afforded cost recovery under the Nuclear Cost Recovery Clause?

OPC: Yes, the utility should immediately inform the Commission as well as all parties to the relevant cost recovery docket.

ISSUE 1E: **What is the appropriate procedure to reduce and refund NPCR charges to retail customers when a utility sells a portion of a nuclear unit to a municipality or another investor owned utility?**

OPC: OPC's tentative position is that the money should be flowed directly to customers as a credit to the amount to be recovered through the nuclear cost recovery mechanism.

2007 PROJECT MANAGEMENT, CONTRACTING, AND OVERSIGHT CONTROLS

Florida Power & Light Company

ISSUE 2A: **Should the Commission find that for the year 2007, FPL's project management, contracting, and oversight controls were reasonable and prudent for the Turkey Point 6 & 7 project and for the Extended Power Uprate (EPU) project?**

OPC: FPL relied frequently on single source or sole source contracts instead of competitive bidding, without sufficient justification. FPL also failed to demonstrate the resulting costs were reasonable. As a result, the Commission should disallow a portion of the return that FPL seeks to earn on the single largest such contract. Alternatively, the Commission should retain jurisdiction over the costs of the contract and require FPL to demonstrate the costs were reasonable. At a minimum, the Commission should place FPL on notice that on a going forward basis the Commission will require a more rigorous demonstration that competitive bidding should not be employed, and that the costs of the resulting single or sole source contract are reasonable.

ISSUE 2B: **Should the Commission find that for the year 2007, FPL's accounting and**

costs oversight controls were reasonable and prudent for the Turkey Point 6 & 7 project and for the EPU project?

OPC: No position.

Progress Energy Florida, Inc.

ISSUE 3A: Should the Commission find that for the year 2007, PEF's project management, contracting, and oversight controls were reasonable and prudent for Levy Units 1 & 2 project and the Crystal River 3 Uprate project?

OPC: Other than considerations raised in Issue 7H, OPC does not take issue with the 2007 costs filed by PEF for the CR3 uprate project. For the 2007 Levy County project costs, OPC agrees that the 2007 costs, as filed, may be collected in 2009, subject to a subsequent examination and review for prudence of those costs in the NCRC hearing in 2009.

ISSUE 3B: Should the Commission find that for the year 2007, PEF's accounting and costs oversight controls were reasonable and prudent for Levy Units 1 & 2 project and the Crystal River 3 Uprate project?

OPC: Other than considerations raised in Issue 7H, OPC does not take issue with the 2007 costs filed by PEF for the CR3 uprate project. For the 2007 Levy County project costs, OPC agrees that the 2007 costs, as filed, may be collected in 2009, subject to a subsequent examination and review for prudence of those costs in the NCRC hearing in 2009.

COMPANY SPECIFIC SITE SELECTION COSTS

Florida Power & Light

ISSUE 4A: Should the Commission grant FPL's request to include the review and approval for recovery through the Nuclear Cost Recovery Clause of prudently incurred site selection costs for the Turkey Point Unit 6 & 7 project?

OPC: The timing of the Turkey Point 6 & 7 need determination order prevented FPL from filing for recovery of site selection costs and preconstruction costs by March 1, as contemplated for previous year true-ups under Rule 25-6.0423, F.A.C. To refuse to allow FPL to begin collecting these costs in 2009 could result in an even higher charge to customers in 2010; however, the post-March 1 filing date shortens the time available to OPC and other parties to review and analyze the site selection and preconstruction costs in this proceeding that is envisioned by the rule, and shortens the time available to the Commission to conduct the prudence review set forth in subsections 25-6.0423(5)(c)(2) and (3) of the above rule. To resolve the issues created by the timing of FPL's request, OPC and FPL agree that FPL may include those site selection and preconstruction costs in the calculation of the nuclear cost recovery amount that is to be recovered through the 2009 capacity cost recovery factor, and further agree that any finding as to the prudence of the costs and/or any determination that certain 2007 costs should be disallowed will be deferred until the 2009 nuclear cost recovery cycle.

ISSUE 4B: What amount should the Commission approve as FPL's final 2007 true-up of prudently incurred site selection costs for the Turkey Point Units 6 & 7 project?

OPC: The timing of the Turkey Point 6 & 7 need determination order prevented FPL from filing for recovery of site selection costs and preconstruction costs by March 1, as contemplated for previous year true-ups under Rule 25-6.0423, F.A.C. To refuse to allow FPL to begin collecting these costs in 2009 could result in an even higher charge to customers in 2010; however, the post-March 1 filing date shortens the time available to OPC and other parties to review and analyze the site selection and preconstruction costs in this proceeding that is envisioned by the rule, and shortens the time available to the Commission to conduct the prudence review set forth in subsections 25-6.0423(5)(c)(2) and (3) of the above rule. To resolve the issues created by the timing of FPL's request, OPC and FPL agree that FPL may include those site selection and preconstruction costs in the calculation of the nuclear cost recovery amount that is to be recovered through the 2009 capacity cost recovery factor, and further agree that any finding as to the prudence of the costs and/or any determination that certain 2007 costs should be disallowed will be deferred until the 2009 nuclear cost recovery cycle.

Progress Energy Florida

ISSUE 5A: Should the Commission grant PEF's request to include the review and approval for recovery through the Nuclear Cost Recovery Clause of prudently incurred site selection costs for the Levy Units 1 & 2 project?

OPC: OPC and PEF agree that the following categories of costs: O&M, return on accumulated deferred tax asset (liability), site selection, pre-construction, and construction, in PEF's NFRs, may be included in the calculation of the nuclear cost recovery amount to be recovered through the 2009 capacity cost recovery factor subject to the deferral of any finding as to the prudence of those costs until the 2009 nuclear cost recovery cycle, notwithstanding the language of subsection 25-6.0423(5)(c)3 of the Rule that such costs "shall not be subject to disallowance or further prudence review." OPC and PEF further agree that PEF's site selection costs will be recovered through the nuclear cost recovery clause in the same manner as pre-construction costs are recovered in Rule 25-6.0423(5)(a).

ISSUE 5B: **What amount should the Commission approve as PEF's final 2007 true-up of prudently incurred site selection costs for the Levy Units 1 & 2 Project?**

OPC: OPC and PEF agree that the following categories of costs: O&M, return on accumulated deferred tax asset (liability), site selection, pre-construction, and construction, in PEF's NFRs, may be included in the calculation of the nuclear cost recovery amount to be recovered through the 2009 capacity cost recovery factor subject to the deferral of any finding as to the prudence of those costs until the 2009 nuclear cost recovery cycle, notwithstanding the language of subsection 25-6.0423(5)(c)3 of the Rule that such costs "shall not be subject to disallowance or further prudence review." OPC and PEF further agree that PEF's site selection costs will be recovered through the nuclear cost recovery clause in the same manner as pre-construction costs are recovered in Rule 25-6.0423(5)(a).

ISSUE 5C: **What amount should the Commission approve as PEF's actual 2008 site selection costs for the Levy Units 1 & 2 Project?**

OPC: OPC and PEF agree that the following categories of costs: O&M, return on accumulated deferred tax asset (liability), site selection, pre-construction, and construction, in PEF's NFRs, may be included in the calculation of the nuclear cost recovery amount to be recovered through the 2009 capacity cost recovery factor subject to the deferral of any finding as to the prudence of those costs until the 2009 nuclear cost recovery cycle, notwithstanding the language of subsection 25-6.0423(5)(c)3 of the Rule that such costs "shall not be subject to disallowance or further prudence review." OPC and PEF further agree that PEF's site selection costs will be recovered through the nuclear cost recovery clause in the same manner as pre-construction costs are recovered in Rule 25-6.0423(5)(a).

**COMPANY SPECIFIC TRUE UP PRECONSTRUCTION AND
CONSTRUCTION COSTS (2007)**

Florida Power & Light

ISSUE 6A: What amount should the Commission approve as FPL's final 2007 true-up of prudently incurred preconstruction costs for the Turkey Point Units 6 & 7 project?

OPC: The timing of the Turkey Point 6 & 7 need determination order prevented FPL from filing for recovery of site selection costs and preconstruction costs by March 1, as contemplated for previous year true-ups under Rule 25-6.0423, F.A.C. To refuse to allow FPL to begin collecting these costs in 2009 could result in an even higher charge to customers in 2010; however, the post-March 1 filing date shortens the time available to OPC and other parties to review and analyze the site selection and preconstruction costs in this proceeding that is envisioned by the rule, and shortens the time available to the Commission to conduct the prudence review set forth in subsections 25-6.0423(5)(c)(2) and (3) of the above rule. To resolve the issues created by the timing of FPL's request, OPC and FPL agree that FPL may include those site selection and preconstruction costs in the calculation of the nuclear cost recovery amount that is to be recovered through the 2009 capacity cost recovery factor, and further agree that any finding as to the prudence of the costs and/or any determination that certain 2007 costs should be disallowed will be deferred until the 2009 nuclear cost recovery cycle.

ISSUE 6B: What total amount should the Commission approve as FPL's final 2007 true-up to be recovered for the Turkey Point Units 6 & 7 project?

OPC: The timing of the Turkey Point 6 & 7 need determination order prevented FPL from filing for recovery of site selection costs and preconstruction costs by March 1, as contemplated for previous year true-ups under Rule 25-6.0423, F.A.C. To refuse to allow FPL to begin collecting these costs in 2009 could result in an even higher charge to customers in 2010; however, the post-March 1 filing date shortens the time available to OPC and other parties to review and analyze the site selection and preconstruction costs in this proceeding that is envisioned by the rule, and shortens the time available to the Commission to conduct the prudence review set forth in subsections 25-6.0423(5)(c)(2) and (3) of the above rule. To

resolve the issues created by the timing of FPL's request, OPC and FPL agree that FPL may include those site selection and preconstruction costs in the calculation of the nuclear cost recovery amount that is to be recovered through the 2009 capacity cost recovery factor, and further agree that any finding as to the prudence of the costs and/or any determination that certain 2007 costs should be disallowed will be deferred until the 2009 nuclear cost recovery cycle.

ISSUE 6C: What amount should the Commission approve as FPL's final 2007 true-up of prudently incurred construction costs for the EPU project?

OPC: The amount approved should reflect the Commission's decision on the alternative remedies proposed by OPC's witness with respect to FPL's overreliance on single source and sole source contracts.

ISSUE 6D: What amount should the Commission approve as carrying charges on FPL's prudently incurred constructions costs for EPU project?

OPC: No position.

ISSUE 6E: What amount should the Commission approve as FPL's final 2007 true-up to be recovered for the EPU project?

OPC: No position.

ISSUE 6F: Has FPL demonstrated that the uprate-related costs it seeks to recover in this docket are incremental to those it would incur in conjunction with providing safe and reliable service during the period associated with the extension of its operating license, had there been no uprate project?

OPC: No. Rule 25-6.0423 was not intended to encompass costs to maintain existing nuclear units. FPL has not provided proof that it has performed a comprehensive analysis to demonstrate that it has identified, and excluded from its request, all costs claimed for the uprate project that are not incremental in nature. The Commission should require such a showing.

Progress Energy Florida

ISSUE 7A: What amount should the Commission approve as PEF's final 2007 true-up of prudently incurred preconstruction costs for the Levy Units 1 & 2 project?

OPC: OPC and PEF agree that the following categories of costs: O&M, return on accumulated deferred tax asset (liability), site selection, pre-construction, and construction, in PEF's NFRs, may be included in the calculation of the nuclear cost recovery amount to be recovered through the 2009 capacity cost recovery factor subject to the deferral of any finding as to the prudence of those costs until the 2009 nuclear cost recovery cycle, notwithstanding the language of subsection 25-6.0423(5)(c)3 of the Rule that such costs "shall not be subject to disallowance or further prudence review." OPC and PEF further agree that PEF's site selection costs will be recovered through the nuclear cost recovery clause in the same manner as pre-construction costs are recovered in Rule 25-6.0423(5)(a).

ISSUE 7B: What amount should the Commission approve as PEF's final 2007 true-up of prudently incurred construction costs for the Levy Units 1 & 2 project?

OPC: OPC and PEF agree that the following categories of costs: O&M, return on accumulated deferred tax asset (liability), site selection, pre-construction, and construction, in PEF's NFRs, may be included in the calculation of the nuclear cost recovery amount to be recovered through the 2009 capacity cost recovery factor subject to the deferral of any finding as to the prudence of those costs until the 2009 nuclear cost recovery cycle, notwithstanding the language of subsection 25-6.0423(5)(c)3 of the Rule that such costs "shall not be subject to disallowance or further prudence review." OPC and PEF further agree that PEF's site selection costs will be recovered through the nuclear cost recovery clause in the same manner as pre-construction costs are recovered in Rule 25-6.0423(5)(a).

ISSUE 7C: What amount should the Commission approve as carrying charges on PEF's prudently incurred construction costs for the Levy Units 1 & 2 project?

OPC: OPC and PEF agree that the following categories of costs: O&M, return on accumulated deferred tax asset (liability), site selection, pre-construction, and construction, in PEF's NFRs, may be included in the calculation of the nuclear cost recovery amount to be recovered through the 2009 capacity cost recovery

factor subject to the deferral of any finding as to the prudence of those costs until the 2009 nuclear cost recovery cycle, notwithstanding the language of subsection 25-6.0423(5)(c)3 of the Rule that such costs “shall not be subject to disallowance or further prudence review.” OPC and PEF further agree that PEF’s site selection costs will be recovered through the nuclear cost recovery clause in the same manner as pre-construction costs are recovered in Rule 25-6.0423(5)(a).

ISSUE 7D: **What amount should the Commission approve as PEF’s final 2007 true-up to be recovered for the Levy Units 1 & 2 project?**

OPC: OPC and PEF agree that the following categories of costs: O&M, return on accumulated deferred tax asset (liability), site selection, pre-construction, and construction, in PEF’s NFRs, may be included in the calculation of the nuclear cost recovery amount to be recovered through the 2009 capacity cost recovery factor subject to the deferral of any finding as to the prudence of those costs until the 2009 nuclear cost recovery cycle, notwithstanding the language of subsection 25-6.0423(5)(c)3 of the Rule that such costs “shall not be subject to disallowance or further prudence review.” OPC and PEF further agree that PEF’s site selection costs will be recovered through the nuclear cost recovery clause in the same manner as pre-construction costs are recovered in Rule 25-6.0423(5)(a).

ISSUE 7E: **What amount should the Commission approve as PEF’s final 2007 true-up of prudently incurred construction costs for the Crystal River 3 Uprate project?**

OPC: *The amount filed by PEF should be approved for collection, subject to requiring PEF to demonstrate that all of its filed CR3 costs are incremental, as described in Issue 7H and in the testimony of Dr. Jacobs.*

ISSUE 7F: **What amount should the Commission approve as carrying charges on PEF’s prudently incurred 2007 construction costs for the Crystal River 3 Uprate?**

OPC: *The amount filed by PEF should be approved for collection, subject to requiring PEF to demonstrate that all of its filed CR3 costs are incremental, as described in Issue 7H and in the testimony of Dr. Jacobs.*

ISSUE 7G: What amount should the Commission approve as PEF's final 2007 true-up to be recovered for the Crystal River 3 Uprate project?

OPC: The amount filed by PEF should be approved for collection, subject to requiring PEF to demonstrate that all of its filed CR3 costs are incremental, as described in Issue 7H and in the testimony of Dr. Jacobs.

ISSUE 7H: Has PEF demonstrated that the uprate-related costs it seeks to recover in this docket are incremental to those it would incur in conjunction with providing safe and reliable service during the period associated with the extension of its operating license, had there been no uprate project?

OPC: No. Rule 25-6.0423 was not intended to encompass costs to maintain existing nuclear units. PEF has not provided proof that it has performed a comprehensive analysis to demonstrate that it has identified, and excluded from its request, all costs that are not incremental in nature.

COMPANY SPECIFIC ACTUAL/ESTIMATED PRECONSTRUCTION AND CONSTRUCTION COSTS (2008)

Florida Power & Light

ISSUE 8A: What amount should the Commission approve as FPL's 2008 actual and estimated costs to be recovered for the Turkey Point Units 6 & 7 project?

OPC: FPL relied frequently on single source or sole source contracts instead of competitive bidding, without sufficient justification. FPL also failed to demonstrate the resulting costs were reasonable. As a result, the Commission should disallow a portion of the return that FPL seeks to earn on the single largest such contract. Alternatively, the Commission should retain jurisdiction over the costs of the contracts and require FPL to demonstrate the costs were reasonable. At a minimum, the Commission should place FPL on notice that on a going forward basis the Commission will require a more rigorous demonstration that competitive bidding should not be employed, and that the costs of the resulting single or sole source contract are reasonable.

ISSUE 8B: What total amount should the Commission approve as FPL's 2008 actual and estimated costs to be recovered for the Turkey Point Units 6 & 7 project?

OPC: FPL relied frequently on single source or sole source contracts instead of competitive bidding, without sufficient justification. FPL also failed to demonstrate the resulting costs were reasonable. As a result, the Commission should disallow a portion of the return that FPL seeks to earn on the single largest such contract. Alternatively, the Commission should retain jurisdiction over the costs of the contract and require FPL to demonstrate the costs were reasonable. At a minimum, the Commission should place FPL on notice that on a going forward basis the Commission will require a more rigorous demonstration that competitive bidding should not be employed, and that the costs of the resulting single or sole source contract are reasonable.

ISSUE 8C: What amount should the Commission approve as FPLs 2008 actual and estimated construction costs for the EPU project?

OPC: FPL relied frequently on single source or sole source contracts instead of competitive bidding, without sufficient justification. FPL also failed to demonstrate the resulting costs were reasonable. As a result, the Commission should disallow a portion of the return that FPL seeks to earn on the single largest such contract. Alternatively, the Commission should retain jurisdiction over the costs of the contract and require FPL to demonstrate the costs were reasonable. At a minimum, the Commission should place FPL on notice that on a going forward basis the Commission will require a more rigorous demonstration that competitive bidding should not be employed, and that the costs of the resulting single or sole source contract are reasonable.

ISSUE 8D: What amount should the Commission approve as carrying charges on FPL's 2008 actual and estimated construction costs for the EPU project?

OPC: No position.

ISSUE 8E: What total amount should the Commission approve as FPL's 2008 actual

and estimated costs to be recovered for the EPU project?

OPC: The amount should reflect any disallowance or adjustment made in consideration of the alternative remedies proposed by OPC's witness.

Progress Energy Florida

ISSUE 9A: What amount should the Commission approve as PEF's 2008 actual and estimated preconstruction costs for the Levy Units 1 & 2 project?

OPC: The amount filed by PEF should be approved for collection in 2009, subject to a prudence review in the NCRC hearings in 2009.

ISSUE 9B: What amount should the Commission approve as PEF's 2008 actual and estimated construction costs for the Levy Units 1 & 2 project?

OPC: The amount filed by PEF should be approved for collection in 2009, subject to a prudence review in the NCRC hearings in 2009.

ISSUE 9C: What amount should the Commission approve as carrying charges on PEF's 2008 actual and estimated construction costs for the Levy Units 1 & 2 project?

OPC: The amount filed by PEF should be approved for collection in 2009, subject to a prudence review in the NCRC hearings in 2009.

ISSUE 9D: What amount should the Commission approve as PEF's 2008 actual and estimated costs to be recovered for the Levy Units 1 & 2 project?

OPC: The amount filed by PEF should be approved for collection in 2009, subject to a prudence review in the NCRC hearings in 2009.

ISSUE 9E: What amount should the Commission approve as PEF's 2008 actual and estimated construction costs for the Crystal River 3 Uprate project?

OPC: The amount filed by PEF should be approved for collection in 2009, subject to requiring PEF to demonstrate that all of its filed costs are incremental, and subject to a prudence review in the NCRC hearings in 2009.

ISSUE 9F: What amount should the Commission approve as carrying charges on PEF's 2008 actual and estimated construction costs for the Crystal River 3 Uprate project?

OPC: The amount filed by PEF should be approved for collection in 2009, subject to requiring PEF to demonstrate that all of its filed costs are incremental, and subject to a prudence review in the NCRC hearings in 2009.

ISSUE 9G: What amount should the Commission approve as PEF's 2008 actual and estimated costs to be recovered for the Crystal River 3 Uprate project?

OPC: The amount filed by PEF should be approved for collection in 2009, subject to requiring PEF to demonstrate that all of its filed costs are incremental, and subject to a prudence review in the NCRC hearings in 2009.

COMPANY SPECIFIC PROJECTED PRECONSTRUCTION AND CONSTRUCTION COSTS (2009)

ISSUE 10A: What amount should the Commission approve as FPL's 2009 projected preconstruction costs for the Turkey Point Units 6 & 7 project.

OPC: See OPC's position on 2A.

ISSUE 10B: What total amount should the Commission approve as FPL's 2009 projected

costs to be recovered for the Turkey Point Units 6 & 7 project?

OPC: See OPC's position on 2A.

ISSUE 10C: What amount should the Commission approve as FPL's 2009 projected construction costs for the EPU project.

OPC: See OPC's positions on 2A and 6F.

ISSUE 10D: What amount should the Commission approve as carrying charges on FPL's 2009 projected construction costs for the EPU project?

OPC: See OPC's positions on 8E and 6F.

ISSUE 10E: What total amount should the Commission approve as FPL's 2009 projected costs to be recovered for the EPU project?

OPC: No position.

Progress Energy Florida

ISSUE 11A: What amount should the Commission approve as PEF's 2009 projected preconstruction costs for the Levy Units 1 & 2 project?

OPC: The amount filed by PEF should be approved for collection in 2009, subject to the subsequent actual/estimated filing by PEF and its reasonableness review in 2009, and subject to the subsequent true-up filing and its prudence review in 2010.

ISSUE 11B: What amount should the Commission approve as PEF's 2009 projected construction costs for the Levy Units 1 & 2 project?

OPC: The amount filed by PEF should be approved for collection in 2009, subject to the subsequent actual/estimated filing by PEF and its reasonableness review in 2009, and subject to the subsequent true-up filing and its prudence review in 2010.

ISSUE 11C: What amount should the Commission approve as carrying charges on PEF's 2009 projected constructions costs for the Levy Units 1 & 2 project?

OPC: The amount filed by PEF should be approved for collection in 2009, subject to the subsequent actual/estimated filing by PEF and its reasonableness review in 2009, and subject to the subsequent true-up filing and its prudence review in 2010.

ISSUE 11D: What total amount should the Commission approve as PEF's 2009 projected costs to be recovered for the Levy Units 1 & 2 project?

OPC: The amount filed by PEF should be approved for collection in 2009, subject to the subsequent actual/estimated filing by PEF and its reasonableness review in 2009, and subject to the subsequent true-up filing and its prudence review in 2010.

ISSUE 11E: What amount should the Commission approve as PEF's 2009 projected construction costs for the Crystal River 3 Uprate project?

OPC: The amount filed by PEF should be approved for collection in 2009, subject to requiring PEF to demonstrate that all of its filed costs are incremental, and subject to a prudence review in the NCRC hearings in 2010.

ISSUE 11F: What amount should the Commission approve as carrying charges on PEF's 2009 projected construction costs for the Crystal River 3 Uprate project?

OPC: The amount filed by PEF should be approved for collection in 2009, subject to requiring PEF to demonstrate that all of its filed costs are incremental, and subject to a prudence review in the NCRC hearings in 2010.

ISSUE 11G: What total amount should the Commission approve as PEF's 2009 projected costs to be recovered for the Crystal River 3 Uprate project?

OPC: The amount filed by PEF should be approved for collection in 2009, subject to requiring PEF to demonstrate that all of its filed costs are incremental, and subject to a prudence review in the NCRC hearings in 2010.

SUMMARY ISSUES

Florida Power & Light

ISSUE 12: What total amount should the Commission approve for the Nuclear Cost Recovery Clause to be included in establishing FPL's 2009 Capacity Cost Recovery Clause factor?

OPC: No position.

Progress Energy Florida

ISSUE 13: What total amount should the Commission approve for the Nuclear Cost Recovery Clause to be included in establishing PEF's 2009 Capacity Cost Recovery Clause factor?

OPC: No position.

5. **STIPULATED ISSUES:**

None other than those recited in response to earlier issues.

6. **PENDING MOTIONS:**

None.

7. **STATEMENT OF PARTY'S PENDING REQUESTS OR CLAIMS FOR CONFIDENTIALITY:**

Citizens have proposed issues relating to the scope of Rule 26-6.0423 and the need to ensure that costs sought to be recovered in connection with uprate activities would not have been required to maintain adequate and reliable service from existing nuclear units, to which FPL has objected.

8. OBJECTIONS TO QUALIFICATION OF WITNESSES AS AN EXPERT:

None at this time.

9. STATEMENT OF COMPLIANCE WITH ORDER ESTABLISHING PROCEDURE:

There are no requirements of the Order Establishing Procedure with which the Office of Public Counsel cannot comply.

Dated this 22nd day of August, 2008.

Respectfully submitted,

J.R. Kelly
Public Counsel

s/ Joseph A. McGlothlin
Joseph A. McGlothlin
Associate Public Counsel

s/ Stephen C. Burgess
Stephen C. Burgess
Associate Public Counsel

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DOCKET NO. 080009-EI
CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing **PREHEARING STATEMENT OF THE OFFICE OF PUBLIC COUNSEL** has been furnished by U.S. Mail and electronic mail to the following parties on this 22nd day of August, 2008.

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