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Sent: Friday, March 13, 2009 2:11 PM
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Subject: Electronic Filing - Docket 090001-EI
Attachments: ResponseToReleaseOfPEF.3-13-09.doc

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b. 090001-EI

In Re: Fuel and Purchased Power Cost Recovery Clause with Generation Performance Incentive Factor.

c. Document being filed on behalf of the Florida Retail Federation, the Florida Industrial Power Users Group, and PCS Phosphates, Inc.

d. There are a total of 7 pages.

e. The document attached for electronic filing is Response in Opposition to Releasing Progress Energy Florida from Requirements of Order No. PSC-08-0824-FOF-EI by the Florida Retail Federation, the Florida Industrial Power Users Group, and PCS Phosphate, Inc.

(see attached file: ResponseToReleaseOfPEF.3-13-09.doc)

Thank you for your attention and assistance in this matter.

Rhonda Dulgar
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DOCUMENT NUMBER-DATE

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FPSC-COMMISSION CLERK

3/13/2009

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Fuel and Purchased Power Cost)
Recovery Clause with Generation) DOCKET NO. 090001-EI
Performance Incentive Factor)
_____) FILED: MARCH 13, 2009

RESPONSE IN OPPOSITION TO RELEASING PROGRESS ENERGY FLORIDA
FROM REQUIREMENTS OF ORDER NO. PSC-08-0824-FOF-EI BY THE
FLORIDA RETAIL FEDERATION, THE FLORIDA INDUSTRIAL
POWER USERS GROUP, AND PCS PHOSPHATES, INC.

The Florida Retail Federation ("FRF"), the Florida Industrial Power Users Group ("FIPUG"), and PCS Phosphates, Inc. ("PCS"), by and through their undersigned attorneys, hereby file this Joint Response in Opposition to Releasing Progress Energy Florida from Requirements of Order No. 08-0824-FOF-EI ("Response" or "Joint Response"). In summary, the Joint Respondents support Progress's implementation of lower Fuel Cost Recovery Charges as of April 1, 2009, but the Respondents respectfully ask that the Commission enforce the specific requirement of Order No. PSC-08-0824-FOF-EI ("2008 Fuel Order") that Progress "file a report . . . that states the effect projected fuel prices as of the end of February 2009, have on the current fuel factor and on the estimated true-up for 2009." (In view of the date on which this matter is to be taken up by the Commission, the Respondents do not object to Progress's separate motion for an extension to file the required report, which has been granted by a separate order of the Commission.) However, the Respondents object to Progress's request that it be released from the requirements of

the Commission's 2008 Fuel Order. In further support of their Response, the Respondents state as follows.

Progress initially filed its projected fuel costs for 2009 in the testimony of Marcia Olivier on August 29, 2008. During the pendency of the 2008 Fuel Cost Recovery Docket, several parties took the position that the utilities should file updates to their projected 2009 fuel costs in light of the fact that world fuel prices were falling during this period. Accordingly, Tampa Electric Company filed updated projections on October 13 that indicated a reduction in the total amount to be collected through the Fuel Cost Recovery Clause for 2009 of approximately 13.5 percent, from \$1.560 billion to \$1.350 billion. On the same date, Progress filed updated 2009 fuel costs indicating a reduction of 9.6 percent, from \$2.977 billion to \$2.692 billion. Florida Power & Light Company filed for a mid-course correction as the 2008 Fuel Docket hearings were ending, and that mid-course correction was a reduction of approximately 13.9 percent, from \$7.145 billion to \$6.153 billion.

In the 2008 Fuel Order, the Commission recognized the continuing decline in fuel prices and to address this continuing price decline with respect to Progress, specifically ordered that:

Progress shall file a report on March 13, 2009, that states the effect projected fuel prices as of the end of February 2009, have on the current fuel factor and on the estimated true-up for 2009.

2008 Fuel Order at 13.

On February 18, 2009, Progress filed a petition asking the Commission to approve a reduction in its Fuel Charges of approximately \$207 million, based on Progress's projected 2009 fuel costs as of January 12, 2009. Progress also asked to be released from further compliance with the 2008 Fuel Order.

The Respondents object to Progress's request to be released from the Order's requirements. The Respondents believe that further declines in fuel prices "as of the end of February 2009" likely warrant a greater reduction in Progress's Fuel Charges than the reduction proposed by Progress. As partial basis for this belief, Respondents note the following:

1. Progress's total percentage reduction since August 2008, calculated by adding the pending \$207 million reduction onto Progress's October 2008 update, would be 16.6 percent.

2. Contemporaneously with Progress's filing, on February 27, 2009, Tampa Electric announced that it will ask the Commission to approve a further reduction in its 2009 Fuel Charges of approximately \$200 million, to be effective on May 1. This brings Tampa Electric's total reduction from its August 2009 projections to 26.3 percent. According to data in the respective companies' 2007 ten-year site plans, Tampa Electric's projected 2009 percentage of natural gas generation was 38.9 percent, as compared to 36.2 percent for Progress.

3. Since August 2008, the prices of natural gas have fallen by significantly more than 40 percent: from the week ending August 7, 2008 to the week ending March 4, 2009, the Henry Hub spot price declined by more than 51 percent, from \$8.70 to \$4.23 per million Btu, and the Henry Hub price of the "12-month strip" of future gas purchases declined by more than 44 percent, from \$9.34 to \$5.16 per million Btu.

While these data are not conclusive, because Respondents are without complete knowledge regarding Progress's hedging costs and

actual contracts, they strongly suggest that Progress should be making a greater reduction in its Fuel Charges.

The Respondents are entitled to have the Commission determine fair, just, and reasonable Fuel Charges for Progress (and for all other Florida public utilities), and in the context of Progress's petition, the Respondents are respectfully asking that the Commission take all necessary steps to ensure that Progress's customers receive the maximum rate relief to which they are entitled. Releasing Progress from the requirements of the 2008 Fuel Order will not provide this protection, and accordingly the Respondents oppose that part of Progress's February 18 petition (set forth in paragraph 10 thereof).

Counsel for the FRF has conferred with counsel for the Office of the Attorney General and is authorized to state that the Attorney General's Office supports the request made by the Joint Respondents. Counsel for the FRF has also conferred with the Office of Public Counsel, and while OPC is not joining this Response, the undersigned is authorized to represent OPC's position as follows:

The Office of Public Counsel supports Progress Energy's proposal to reduce its Fuel Charges on April 1, 2009, and the OPC does not object to Progress Energy's requested 30-day extension to file the report required by the 2008 Fuel Order. However, OPC concurs in the request that the Commission enforce the 2008 Fuel Order by requiring Progress to file an updated projection of fuel cost forecasts within 30 days of March 13, 2009.

WHEREFORE, for the reasons set forth above, the Florida Retail Federation, the Florida Industrial Power Users Group, and PCS Phosphates, Inc., respectfully ask the Florida Public Service Commission to enforce the specific requirements of the 2008 Fuel Order by requiring that Progress "file a report . . . that states the effect projected fuel prices as of the end of February 2009, have on the current fuel factor and on the estimated true-up for 2009."

Respectfully submitted this 13th day of March, 2009.

s/John T. LaVia, III

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by electronic Mail this 13th day of March, 2009, to the following:

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