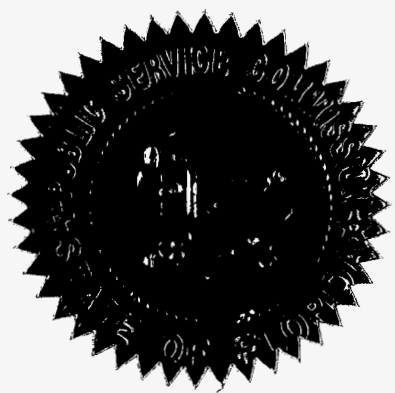


BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

DOCKET NO. 070703-EI

In the Matter of:

REVIEW OF COAL COSTS FOR PROGRESS
ENERGY FLORIDA'S CRYSTAL RIVER
UNITS 4 AND 5 FOR 2006 AND 2007.



15	PROCEEDINGS:	PREHEARING
16	BEFORE:	CHAIRMAN MATTHEW M. CARTER, II PREHEARING OFFICER
18	DATE:	Tuesday, March 24, 2009
19	TIME:	Commenced at 1:30 p.m. Concluded at 1:45 p.m.
21	PLACE:	Betty Easley Conference Center Room 148 4075 Esplanade Way Tallahassee, Florida
24	REPORTED BY:	JANE FAUROT, RPR Official FPSC Reporter (850) 413-6732

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APPEARANCES:

JOHN T. BURNETT, ESQUIRE, Progress Energy Service Company, LLC, Post Office Box 14042, St. Petersburg, Florida 33733-4042, appearing on behalf of Progress Energy Florida, Inc.

VICKI GORDON KAUFMAN, ESQUIRE, Keefe Anchors, Gordon and Moyle, 118 North Gadsden Street, Tallahassee, Florida 32301 and JOHN W. McWHIRTER, ESQUIRE, Post Office Box 3350, Tampa, Florida 33601, appearing on behalf of the Florida Industrial Power Users Group.

JOE MCGLOTHLIN, ESQUIRE, Office of Public Counsel c/o The Florida Legislature, 111 W. Madison Street, Room 812, Tallahassee, Florida 32399-1400, appearing on behalf of the Citizens of the State of Florida.

LISA BENNETT, ESQUIRE, and KEINO YOUNG, ESQUIRE, FPSC General Counsel's Office, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, appearing on behalf of the Commission Staff.

CECILIA BRADLEY, ESQUIRE, Office of the Attorney General, Tallahassee, Florida, appearing on behalf of the Citizens of Florida.

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APPEARANCES (continued):

MARY ANNE HELTON, ESQUIRE, Florida Public
Service Commission, 2540 Shumard Oak Blvd., Tallahassee,
Florida 32399-0850, Advisor to the Commission.

P R O C E E D I N G S

1
2 CHAIRMAN CARTER: Good morning to one and all.
3 I'd like to call this prehearing conference to order.

4 First of all, staff, would you please read the
5 notice.

6 MS. BENNETT: Yes, Mr. Chairman.

7 By notice duly given, this date and place and
8 time has been set for the prehearing conference in
9 Docket Number 070703, review of coal costs for Progress'
10 Crystal River Units 4 and 5 for 2006 and 2007.

11 CHAIRMAN CARTER: Now let's take appearances.

12 MR. BURNETT: Good morning, Mr. Chairman.

13 John Burnett for Progress Energy Florida.

14 MR. MCGLOTHLIN: Good morning. Joe McGlothlin
15 with the Office of Public Counsel for the Citizens of
16 the State of Florida.

17 MS. KAUFMAN: Good morning, Mr. Chairman.

18 Vicki Gordon Kaufman with the law firm of Keefe Anchors
19 Gordon and Moyle on behalf of the Florida Industrial
20 Power Users Group, and I'd like to also enter an
21 appearance for John McWhirter on behalf of FIPUG.

22 CHAIRMAN CARTER: Are you entering also for
23 Mr. Moyle? Is he going to be a part of your team?

24 MS. KAUFMAN: No, he will not.

25 CHAIRMAN CARTER: Just you and Mr. McWhirter?

1 MS. KAUFMAN: Yes, sir.

2 CHAIRMAN CARTER: Thank you. Let me make a
3 note to that effect.

4 MS. BENNETT: And Lisa Bennett and Keino Young
5 on behalf of the Commission staff.

6 MS. HELTON: And Mary Anne Helton, advisor to
7 the Commission.

8 CHAIRMAN CARTER: Okay. So we've got
9 everybody here. Let's deal with our preliminary
10 matters.

11 MS. BENNETT: The first preliminary matter we
12 have, Madam Chair -- or, Mr. Chairman, I'm sorry, the
13 Attorney General's Office filed a petition to intervene
14 this morning. I was contacted by Cecilia Bradley. She
15 stated that she has another hearing at 10:30, but will
16 try and be here.

17 Although normally we wait for seven days to
18 see if there are any objections to a petition, if all
19 the parties are here and there is no objection you could
20 rule on that motion or petition to intervene today.

21 CHAIRMAN CARTER: Okay. Any objection to the
22 Attorney General participating?

23 MR. BURNETT: No, sir. Realizing the fact
24 that I've not seeing the petition, I'm assuming it's in
25 the standard form it would be, and recognizing that the

1 A&G would take the case as they find it, no objection at
2 all, sir.

3 MR. McGLOTHLIN: No objection.

4 MS. KAUFMAN: No objection.

5 CHAIRMAN CARTER: Okay. So show it done, and
6 we will get the order and get that signed and served on
7 all the parties. Okay.

8 Ms. Bennett.

9 MS. BENNETT: The next item that I would like
10 to advise the Chairman and the parties is that we were
11 notified yesterday -- staff was notified yesterday by
12 OPC that OPC will be filing a motion in limine and a
13 motion to strike some of Progress' rebuttal testimony,
14 but that's not going to be a matter before you today
15 because normally parties are given seven days to respond
16 in writing to a motion. It's a matter that can be taken
17 up by separate order.

18 CHAIRMAN CARTER: Okay. I look forward to
19 reading it.

20 MR. McGLOTHLIN: We filed it this morning, Mr.
21 Chairman. It is no attempt to surprise anyone. It's a
22 matter of meeting the technical deadline, which is
23 today, and we will submit it on the pleadings.

24 CHAIRMAN CARTER: Okay. Thank you.

25 Again, as I said, I look forward to reading

1 this. Every now and then I get to do some legal stuff.

2 Okay. Any other preliminary matters?

3 MS. BENNETT: No other preliminary matters
4 from staff.

5 CHAIRMAN CARTER: Any preliminary matters from
6 Mr. Burnett?

7 MR. BURNETT: No, sir.

8 CHAIRMAN CARTER: Mr. McGlothlin?

9 MR. MCGLOTHLIN: No, sir.

10 CHAIRMAN CARTER: Ms. Kaufman?

11 MS. KAUFMAN: No, Mr. Chairman.

12 CHAIRMAN CARTER: I should say Gordon-Kaufman.
13 Is that the way I should say it?

14 MS. KAUFMAN: Kaufman is fine. Thank you.

15 CHAIRMAN CARTER: Good.

16 It has been awhile since you guys have seen me
17 in the prehearing perspective, but you know I like to go
18 through each one of the sections section-by-section. If
19 there is nothing pertaining to it, you don't have to say
20 anything, we will just go on though it.

21 Staff, anything further before I proceed
22 through the draft prehearing order?

23 MS. BENNETT: No, sir.

24 CHAIRMAN CARTER: Anything from the parties
25 before we proceed further?

1 MR. MCGLOTHLIN: No, sir.

2 CHAIRMAN CARTER: Okay. Section I, case
3 background. Any questions, concerns? Okay. Show it
4 done.

5 Let's take a moment. (Pause.)

6 MS. BRADLEY: Good morning.

7 CHAIRMAN CARTER: I understand that you have a
8 hearing to go to, so we're going to get you out of here
9 most expeditiously.

10 MS. BRADLEY: Thank you.

11 CHAIRMAN CARTER: You can go ahead on and
12 enter your appearance. I'll sign the order later on
13 today.

14 MS. BRADLEY: Thank you, sir. It's Cecilia
15 Bradley on behalf of the Attorney General on behalf of
16 the Citizens of Florida.

17 CHAIRMAN CARTER: Thank you. And I know it's
18 a sacrifice to hump it all the way out here when you've
19 got a hearing downtown, so we'll try to move it as
20 expeditiously as possible.

21 MS. BRADLEY: Thank you, sir.

22 CHAIRMAN CARTER: Yes, ma'am.

23 Okay. Nothing on case background.

24 Section II, conduct of proceedings. No
25 problem there.

1 Jurisdiction.

2 Procedure for handling confidential
3 information. That will be our standard way of dealing
4 with that unless there are some changes.

5 Prefiled testimony and exhibits and witnesses.
6 Staff, you're recognized.

7 MS. BENNETT: Mr. Chairman, staff recommends
8 no more than five minutes per witness for summaries.

9 CHAIRMAN CARTER: Okay. So, guys, what we're
10 doing is we're asking you for your witnesses to say up
11 to five minutes for their summary when they're
12 summarizing their testimony.

13 MR. BURNETT: Mr. Chair.

14 CHAIRMAN CARTER: You're recognized.

15 MR. BURNETT: Would the Chair potentially
16 entertain seven minutes?

17 CHAIRMAN CARTER: Let me hear from the parties
18 before I --

19 MR. BURNETT: Yes, sir.

20 MR. MCGLOTHLIN: I'll support that, Mr.
21 Chairman. The witnesses have a lot of ground to cover,
22 and, you know, this one-size-fits-all sometimes just
23 doesn't turn into anything that's helpful to the
24 Commissioners.

25 CHAIRMAN CARTER: Okay.

1 Ms. Kaufman.

2 MS. KAUFMAN: We would have no objection to
3 seven minutes.

4 CHAIRMAN CARTER: Ms. Bradley.

5 MS. BRADLEY: No objection, sir.

6 CHAIRMAN CARTER: You know, I usually am kind
7 of a stickler for the time, so if we are going to give
8 them seven minutes, it's not going to be seven minutes
9 and one second, or seven minutes and fifty seconds, or
10 eight minutes, or anything like that.

11 And the reason I do that is not to be
12 draconian, but the only time we get a chance to discuss
13 the case is when we are at the bench so we do have a lot
14 of questions and concerns. We have read the testimony
15 and gone through the exhibits that have been filed, and
16 staff has them in their composite, so what I try to do
17 is give my colleagues as much time as possible to ask
18 whatever questions that they may have.

19 So if you think I'm kind of draconian on my
20 time, it's that I want to give them maximum time,
21 because this is the only time we can discuss it. You
22 know, obviously the government in the sunshine is when
23 we are here on the bench. That is from the
24 for-whatever-it's-worth department.

25 So, staff, we'll show it at seven minutes.

1 Not more -- it should read not more than seven minutes,
2 okay.

3 Anything further under Section V under
4 prefiled testimony and exhibits; witnesses?

5 Hearing none, Section VI, order of witnesses.
6 Are there any witnesses that you guys agreed to
7 stipulate on so far?

8 MR. MCGLOTHLIN: No, sir.

9 MR. BURNETT: No, sir.

10 CHAIRMAN CARTER: Okay. Well, it's a dynamic
11 process. If you do so, let staff know and we can kind
12 of incorporate that and let all the parties know on
13 that. Okay.

14 Anything further on order of witnesses?

15 Mr. Burnett, let me just ask you this in the
16 context of direct and rebuttal. Are you going to take
17 it -- are you going to do it separately or together?

18 MR. BURNETT: Separately, please, sir.

19 CHAIRMAN CARTER: Okay. That will be fine.
20 All right. Number VII, basic positions. And I presume
21 that the basic positions are the ones that were laid out
22 in the prehearing order, the draft prehearing order,
23 right? As we identified the issues, Issues 1 through --
24 staff.

25 MS. BENNETT: The basic positions are in

1 Section VII. It is an overall summary of the case.

2 CHAIRMAN CARTER: Okay. That will be -- it
3 goes through Issue 1 through Issue 3. And there are
4 parts to Issue 1, subparts. Okay. All right, then.
5 Are we okay on basic positions.

6 Section VIII, issues and positions. I guess
7 those are preliminarily laid out in this, as well, is
8 that correct?

9 MS. BENNETT: That's correct, they have been
10 laid out. I don't think that there is any changes that
11 the parties have asked for other than that that we have
12 incorporated earlier.

13 CHAIRMAN CARTER: Okay. Do you guys agree to
14 that? Okay. Good deal.

15 How about we go to Section IX, exhibit list.
16 Staff.

17 MS. BENNETT: Mr. Chairman, I would note that
18 we'll prepare a comprehensive exhibit list consisting of
19 all of the prefiled exhibits for the purposes of
20 numbering and identifying the exhibits at the hearing.
21 Staff will also prepare an exhibit list and a group of
22 exhibits called the composite exhibit, and we'll provide
23 that to the parties ahead of the hearing and hope that
24 it is stipulated into the record.

25 CHAIRMAN CARTER: Okay. And also any proposed

1 stipulations or exhibits that are agreed to by the
2 parties, that will be in there as well. Okay.

3 Let's move on to Section X, proposed
4 stipulations. And from talking to you guys this
5 morning, there are none, right? Okay.

6 Section XI, pending motions. We have one
7 pending motion, right?

8 MS. BENNETT: Correct, the one that we
9 addressed in the preliminary matters.

10 CHAIRMAN CARTER: Okay. We'll deal with that
11 at the appropriate time when the parties have had an
12 opportunity to review it and staff can make a
13 recommendation.

14 MS. BENNETT: We'll address that by separate
15 order, I believe.

16 CHAIRMAN CARTER: Okay. By separate order,
17 then.

18 Section XII, pending confidentiality motions.

19 MS. BENNETT: Madame -- or, Mr. Chairman. I'm
20 going to do that all morning. There are eight pending
21 confidentiality requests at this time which will be
22 addressed by separate order, also.

23 CHAIRMAN CARTER: Do I look like I'm on my
24 feminine side today? I thought I was doing John Wayne.

25 (Laughter.)

1 I deserve that because I made a comment -- you
2 know Lisa has new glasses, so you all need to look at
3 her and tell her they look good, okay?

4 MS. BENNETT: Maybe I should have the
5 prescription checked again. (Laughter.)

6 CHAIRMAN CARTER: Section XIII, post-hearing
7 procedures.

8 Staff, you're recognized.

9 MS. BENNETT: Staff suggests post-hearing
10 positions be limited to 50 words and the post-hearing
11 briefs be limited to 40 pages.

12 CHAIRMAN CARTER: Okay. That's fairly
13 standard.

14 MR. MCGLOTHLIN: Mr. Chairman, I would request
15 some relief from that 50-word limitation. Some of these
16 issues involve a description of analyses, and there are
17 only a handful of issues, so if we had 200 words for
18 each of those, it would still not be a long or
19 burdensome thing to read.

20 CHAIRMAN CARTER: I'll tell you what, Mr.
21 McGlothlin, I'm feeling very charitable today. You have
22 100.

23 MR. MCGLOTHLIN: Thank you, sir.

24 CHAIRMAN CARTER: What is that, a 100 percent
25 increase, isn't it?

1 Staff, we'll just make that 100 words and keep
2 our limit of 40 pages.

3 Section XIV, any rulings. Staff.

4 MS. BENNETT: Yes, staff would suggest that
5 the prehearing officer make a ruling that opening
6 statements be limited to five minutes.

7 CHAIRMAN CARTER: Okay. We are going to give
8 you guys seven minutes since we gave your witnesses
9 seven minutes, all right. So, staff, we'll make that
10 correction to seven.

11 Okay. Any other matters?

12 MS. BENNETT: Yes. Because there is a new
13 party to this proceeding, we'd ask that the Attorney
14 General's Office provide us with any position statements
15 on the issues and the basic position no later than close
16 of business on Friday, March 27th.

17 CHAIRMAN CARTER: Is that a problem, Ms.
18 Bradley?

19 MS. BRADLEY: We'll make it happen. Thank
20 you.

21 CHAIRMAN CARTER: Excelente.

22 Alrighty, Staff, any other matters?

23 MS. BENNETT: No other matters from staff.

24 CHAIRMAN CARTER: Any other matters from the
25 petitioners and the intervenors?

1 MR. BURNETT: No, sir.

2 MR. McGLOTHLIN: Nothing.

3 MS. KAUFMAN: No, Mr. Chairman.

4 CHAIRMAN CARTER: Okay. Ms. Bradley, you're
5 going to make your meeting.

6 MS. BRADLEY: Yes, sir. Thank you very much.

7 CHAIRMAN CARTER: Anything further?

8 MS. BRADLEY: No, sir. Thank you.

9 CHAIRMAN CARTER: Okay. With that we are
10 adjourned.

11 (The prehearing concluded at 9:45 a.m.)

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STATE OF FLORIDA)
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 : CERTIFICATE OF REPORTER
COUNTY OF LEON)

I, JANE FAUROT, RPR, Chief, Hearing Reporter Services Section, FPSC Division of Commission Clerk, do hereby certify that the foregoing proceeding was heard at the time and place herein stated.

IT IS FURTHER CERTIFIED that I stenographically reported the said proceedings; that the same has been transcribed under my direct supervision; and that this transcript constitutes a true transcription of my notes of said proceedings.

I FURTHER CERTIFY that I am not a relative, employee, attorney or counsel of any of the parties, nor am I a relative or employee of any of the parties' attorney or counsel connected with the action, nor am I financially interested in the action.

DATED THIS 25th day of March, 2009.



JANE FAUROT, RPR
Official FPSC Hearings Reporter
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