



(Writer's Direct Dial No. 727-820-5587)

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10 MAY 10 AM 8:00
COMMISSION
CLERK
R. ALEXANDER GLENN
General Counsel

Via Hand Delivery

May 10, 2010

Ms. Ann Cole
Commission Clerk
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

Re: Docket #090079-EI

Dear Ms. Cole:

Enclosed for filing in the above-referenced docket are an original and seven (7) copies of the parties' (1) Joint Motion for Approval of Stipulation and Settlement and (2) Stipulation and Settlement Agreement dated May 10, 2010.

Please acknowledge your receipt of the above filing on the enclosed copy of this letter and return to the undersigned. Also enclosed is a CD containing the (1) joint Motion for Approval of Stipulation and Settlement and (2) the Stipulation and Settlement Agreement in Word format. Thank you for your assistance in this matter.

Sincerely,

R. Alexander Glenn

RAG/emc
Enclosures

COM
APA
ECR
GCL
RAD
SSC
ADM
OPC
CLK

Progress Energy Florida, Inc.
P.O. Box 14042
St. Petersburg, FL 33733

DOCUMENT NUMBER-DATE
03904 MAY 10 09
FPSC-COMMISSION CLERK

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for increase in rates by Progress Energy Florida, Inc.	Docket No. 090079-EI
In re: Petition for limited proceeding to include Bartow repowering project in base rates, by Progress Energy Florida, Inc.	Docket No. 090144-EI
In re: Petition for expedited approval of the deferral of pension expenses, authorization to charge storm hardening expenses to the storm damage reserve, and variance from or waiver of Rule 25-6.0143(1)(c), (d), and (f), F.A.C., by Progress Energy Florida, Inc.	Docket No. 090145-EI
In re: Petition of approval of an accounting order to record a depreciation expense credit by Progress Energy Florida, Inc.	Docket No. 100136-EI FILED: May 10, 2010

JOINT MOTION FOR APPROVAL OF STIPULATION AND SETTLEMENT AGREEMENT

Progress Energy Florida, Inc. (“PEF” or the “Company”), the Office of Public Counsel (“OPC”), the Attorney General of the State of Florida (“AG”), the Florida Industrial Power Users Group (“FIPUG”), the Florida Retail Federation (“FRF”), White Springs Agricultural Chemicals, Inc. (“White Springs”), and the U.S. Department of the Navy (“USDN”) (collectively, the “Joint Movants”) hereby jointly move the Commission to approve the Stipulation and Settlement Agreement, dated May 10, 2010, and attached hereto, which the Joint Movants have entered into for the resolution of all issues in Docket Nos. 090079-EI, 090144-EI, 090145-EI, and 100136-EI.

In support of this motion, the Joint Movants represent as follows:

1. The Joint Movants have been engaged in negotiations for the purpose of reaching a comprehensive stipulation in settlement of all issues in the above-referenced dockets and thereby

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avoiding the need for further expensive, time consuming litigation of these issues in hearings before the Commission. These negotiations have culminated in the execution of the attached Stipulation and Settlement Agreement. The Joint Movants request that following the Commission's review of this Joint Motion and the Stipulation and Settlement Agreement the Commission approve this motion and the Stipulation and Settlement Agreement at its June 1, 2010, Agenda Conference.

2. The Stipulation and Settlement Agreement provides for, among other things, that PEF's base rates will remain at existing levels, except as otherwise provided for in the Stipulation and Settlement Agreement, through the last billing cycle of 2012. Other key provisions of the Stipulation and Settlement Agreement include, but are not limited to, the ability to reduce the existing depreciation theoretical reserve imbalance, a continuation of PEF's current cost of service and rate design, and the disposition of the four pending Dockets 090079-EI, 090144-EI, 090145-EI, and 100136-EI.

3. The Joint Movants represent that the Stipulation and Settlement Agreement fairly and reasonably balances the various positions of the parties on issues in these proceedings, and serves the best interests of the customers they represent and the public interest in general. The Stipulation and Settlement Agreement is fully consistent with and supportive of this Commission's long standing policy of encouraging the settlement of contested proceedings in a manner that benefits the ratepayers of utilities subject to the Commission's regulatory jurisdiction and that avoids the need for costly, time consuming and inefficient litigation of matters before the Commission. For these reasons, the Joint Movants request that the Commission approve the Stipulation and Settlement Agreement attached to this motion.

4. The Joint Movants ask that the Commission undertake its review of the Stipulation and Settlement Agreement and act upon this Joint Motion for its approval at the Commission's June 1, 2010, Agenda Conference in order to allow for the orderly implementation of the Agreement and to provide certainty to the parties and their respective constituents and customers with respect to the outcome of this proceeding.

WHEREFORE, the Joint Movants respectfully request that the Commission approve the Stipulation and Settlement Agreement attached hereto.

Respectfully submitted,

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**Florida Power Corporation dba
Progress Energy Florida, Inc.**

By 

Alex Glenn, Esquire
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Office of Public Counsel

By _____



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Attorney General, State of Florida

By: 
Bill McCollum, Attorney General
Cecilia Bradley, Esquire

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Florida Industrial Power Users Group

By *Vicki Gordon Kaufman*

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**White Springs Agricultural Chemicals,
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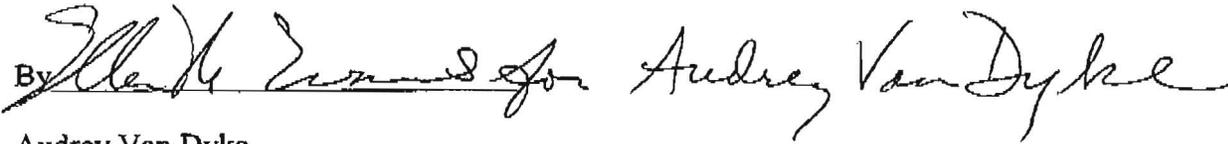
Florida Retail Federation

By 

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FEDERAL EXECUTIVE AGENCIES

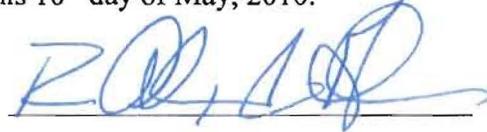
By  *Mark H. [unclear] for Audrey Van Dyke*

Audrey Van Dyke
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Litigation Headquarters
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Washington Navy Yard, D.C. 20374

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true copy of the foregoing Joint Motion for Approval of Stipulation and Settlement Agreement has been furnished by hand delivery to Katherine Fleming, Esquire, Office of the General Counsel, Economic Regulation Section, Florida Public Service Commission, 2540 Shumard Oak Blvd., Tallahassee, Florida 32399-0850, and the parties listed below with the exception of those indicated by an (*), who have been served by overnight courier, on this 10th day of May, 2010.



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Alpharetta, GA 30009

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for increase in rates by Progress Energy Florida, Inc.	Docket No. 090079-EI
In re: Petition for limited proceeding to include Bartow repowering project in base rates, by Progress Energy Florida, Inc.	Docket No. 090144-EI
In re: Petition for expedited approval of the deferral of pension expenses, authorization to charge storm hardening expenses to the storm damage reserve, and variance from or waiver of Rule 25-6.0143(1)(c), (d), and (f), F.A.C., by Progress Energy Florida, Inc.	Docket No. 090145-EI
In re: Petition of approval of an accounting order to record a depreciation expense credit by Progress Energy Florida, Inc.	Docket No. 100136-EI FILED: May 10, 2010

STIPULATION AND SETTLEMENT AGREEMENT

WHEREAS, pursuant to its March 20, 2009 filing, Progress Energy Florida, Inc. (“PEF” or the “Company”), petitioned the Florida Public Service Commission (the “Commission”) for an increase in base rates and other related relief;

WHEREAS, the Commission issued Order No. PSC-10-0131-FOF-EI on March 18, 2010, of which PEF and the Office of Public Counsel (“OPC”) have sought reconsideration, and which requests are pending before this Commission;

WHEREAS, the Company has filed with the Commission a petition for approval of an accounting order to record a depreciation expense credit, which remains pending before this Commission in Docket No. 100136-EI, and in which OPC and others have intervened;

WHEREAS, the Company, OPC, the Attorney General of the State of Florida (“AG”), the Florida Industrial Power Users Group (“FIPUG”), the Florida Retail Federation (“FRF”), White Springs Agricultural Chemicals, Inc. (“White Springs”), and the U.S. Department of the Navy (“USDN”) have agreed in principle to resolve all outstanding issues in Docket Nos. 090079-EI, 090144-EI, 090145-EI and 100136-EI pending before the Commission, as set forth in this Stipulation and Settlement Agreement (the “Agreement”) dated May10, 2010;

WHEREAS, unless the context clearly requires otherwise, the term Party or Parties means a signatory to this Agreement;

WHEREAS, the Parties recognize that this is an unprecedented time in the Florida economy, and that all Floridians, in particular those with fixed or low incomes, have been severely affected by the current economic recession;

WHEREAS, PEF and the Parties to this Agreement also recognize that this is a period of significant uncertainty regarding fuel prices and other energy, commodity, and operation and maintenance costs, driven in part by global factors and general economic uncertainty;

WHEREAS, this Agreement will help to mitigate the impact of high energy prices by, among other things, freezing PEF’s current base rates through 2012;

WHEREAS, PEF believes that, but for this Agreement, the combination of lower energy sales and the rising cost of providing electric service would necessitate base rate increases implemented before or during 2012; and

WHEREAS, this Agreement will allow PEF’s customers to avoid such potential rate increases.

NOW, THEREFORE, in consideration of the foregoing and the covenants contained herein, the Parties hereby agree and stipulate as follows:

1. This Agreement will become effective upon approval and final order of the Commission (the "Implementation Date") and continue through the last billing cycle in December 2012.

2. PEF will continue its base rates in effect as of the Implementation Date, without any change in such base rates except as otherwise provided for in this Agreement. Cost of service and rate design issues will be as set forth in Order No. PSC-10-0131-FOF-EI.

3. In consideration of the foregoing, PEF will have the discretion to reduce depreciation expense (cost of removal) by up to \$150 million in 2010, up to \$250 million in 2011, and up to any remaining balance in 2012 during the term of this Agreement until the earlier of (a) PEF's depreciation (cost of removal) reserve reaches zero, or (b) the term of this Agreement expires. In the event PEF reduces depreciation expense (cost of removal) by less than the caps set forth in this paragraph, PEF may carry forward (i.e. increase the cap by) any unused depreciation (cost of removal) reserve amounts in subsequent years during the term of this Agreement.

4. No Party to this Agreement will request, support, or seek to impose a change in the application of any provision hereof. Except as provided in paragraph 5, OPC, AG, FIPUG, FRF, White Springs, and USDN will neither seek nor support any reduction in PEF's base rates, including limited, interim or any other rate decreases, that would take effect prior to the first billing cycle for January 2013, except for any such reduction requested by PEF or as otherwise provided for in this Agreement. PEF shall not seek interim, limited, or general base rate relief during the term of this Agreement except as provided for in paragraph 5 of this Agreement. PEF is not precluded from seeking interim, limited or general base rate relief that would be effective during or after the first billing cycle in January 2013. Such interim relief may be based on time

periods before January 1, 2013, consistent with Section 366.071, F.S., and calculated without regard to the provisions of this Agreement.

5. If PEF's retail base rate earnings fall below a 9.5% return on equity as reported on a historical (12 month rolling period income statement) Commission adjusted or pro-forma basis on a PEF monthly earnings surveillance report during the term of the Agreement, PEF shall be entitled to seek general, limited, or interim base rate relief, or any combination thereof. Prior to requesting any such relief under this paragraph, PEF must have reflected on its referenced surveillance report reduced depreciation expense (cost of removal) by the greater of \$150 million or the actual cost of removal-generated depreciation expense credit on an adjusted or pro forma basis, and PEF may not seek any such relief to be effective during the term of this Agreement if its return on equity for such period (as defined in the first sentence of this paragraph) is equal to or greater than 9.5% after the specified reduction in depreciation expense has been included and reflected. Any calculation of interim rate increase relief pursuant to Section 366.071(5)(b)1, F.S., shall include a cost of removal-generated depreciation expense credit in the amount of the greater of \$150 million or the actual amount recorded. If PEF's retail base rate earnings exceed 11.5% return on equity as reported on a historical Commission adjusted or pro-forma basis on a PEF monthly earnings surveillance report during the term of the Agreement, any other Party shall be entitled to petition the Commission for a review of PEF's base rates. PEF will not include any acceleration of deferred assets identified in Paragraph 7 in the calculation of earnings for purposes of determining eligibility for seeking interim, limited or general base rate relief to be effective during the term of this Agreement or calculating interim relief entitlement under this paragraph to the extent that such accelerated expenses cause achieved earnings to be below 9.5% return on equity on an historical basis. The Parties to this Agreement are not precluded from

participating in any such proceedings. This Agreement shall terminate on the last day of the last billing cycle in December 2012 or the effective date of any Final Order issued in such proceeding that changes PEF's base rates under this paragraph. This paragraph shall not be construed to bar or limit PEF from any recovery of costs otherwise contemplated by this Agreement.

6. Nothing shall preclude the Company from requesting the Commission to approve the recovery of costs (a) that are of a type which traditionally and historically would be, have been, or are presently recovered through cost recovery clauses or surcharges, or (b) that are incremental costs not currently recovered in base rates which the Legislature or Commission determines are clause recoverable subsequent to the approval of this Agreement, or (c) which are recoverable through base rates under the nuclear cost recovery legislation, Section 366.93, F.S., or Commission Rule 25-6.0423, F.A.C. Specifically with respect to storm damage costs, nothing in this Agreement shall preclude PEF from petitioning the Commission to seek recovery of costs associated with any storms without the application of any form of earnings test or measure and irrespective of previous or current base rate earnings or level of theoretical depreciation reserve. Consistent with the rate design method set forth in Order Nos. PSC-06-0772-PAA-EI and PSC-05-0748-FOF-EI, the Parties agree that recovery of storm costs from customers will begin, on an interim basis, sixty days following the filing of a cost recovery petition and tariff with the Commission and will be based on a 12-month recovery period if the storm costs do not exceed \$4.00/1,000 kWh on monthly residential customer bills. In the event the storm costs exceed that level, any additional costs in excess of \$4.00/1,000 kWh shall be recovered in a subsequent year or years as determined by the Commission. All storm related costs shall be calculated and disposed of pursuant to Commission Rule 25-6.0143, F.A.C., and will be limited to costs

resulting from a tropical system named by the National Hurricane Center or its successor, estimate of incremental costs above the level of storm reserve prior to the storm and replenishment of the storm reserve to the level as of the Implementation Date of this Agreement. The Parties to this Agreement are not precluded from participating in any such proceedings. The Parties expressly agree that any proceeding to recover costs associated with any storm shall not be a vehicle for a “rate case” type inquiry concerning the expenses, investment, or financial results of operations of the Company and shall not apply any form of earnings test or measure or consider previous or current base rate earnings or level of theoretical depreciation reserve.

7. PEF will be authorized, at its discretion, to accelerate in whole or in part the amortization of the regulatory assets for FAS 109 Deferred Tax Benefits Previously Flowed Through, Unamortized Loss on Reacquired Debt, Interest on Income Tax Deficiency and 2009 Pension Regulatory Asset over the term of this Agreement. Any balance remaining after the acceleration of the amortization of these regulatory assets will continue to be recoverable in rates in the future through amortization to the cost of service.

8. The provisions of this Agreement are contingent on approval of this Agreement in its entirety by the Commission. The Parties further agree that they will support this Agreement and will not request or support any order, relief, outcome, or result in conflict with the terms of this Agreement in any administrative or judicial proceeding relating to, reviewing, or challenging the establishment, approval, adoption, or implementation of this Agreement or the subject matter hereof. No party will assert in any proceeding before the Commission that this Agreement or any of the terms in the Agreement shall have any precedential value. Approval of this Agreement in its entirety will resolve all matters in Docket Nos. 090144-EI, 090145-EI, 090079-EI, and 100136-EI pursuant to and in accordance with Section 120.57(4), Florida Statutes

(2009). Upon approval of this Settlement Agreement in its entirety by the Commission, PEF and OPC will withdraw their respective Motions for Reconsideration of Order No. PSC-10-0131-FOF-EI, and PEF will withdraw its Petition for Approval of an Accounting Order to Record a Depreciation Expense Credit in Docket No. 100136-EI. These Dockets will be closed effective on the date the Commission Order approving this Agreement is final and no Party shall seek appellate review of any order issued in these Dockets.

9. This Agreement dated as of May 10, 2010 may be executed in counterpart originals, and a facsimile of an original signature shall be deemed an original.

In Witness Whereof, the Parties evidence their acceptance and agreement with the provisions of this Agreement by their signatures below.

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**Florida Power Corporation dba
Progress Energy Florida, Inc.**

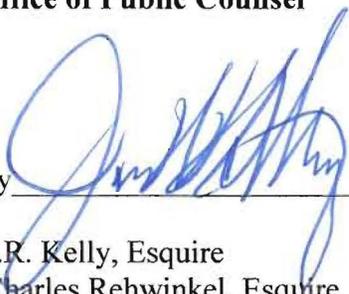
By 

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Office of Public Counsel

By _____



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Attorney General, State of Florida

By: 
Bill McCollum, Attorney General
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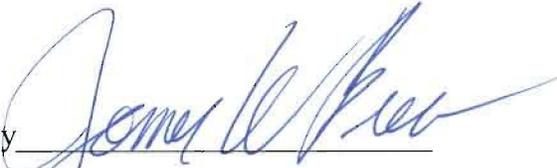
Florida Industrial Power Users Group

By *Vicki Gordon Kaufman*

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**White Springs Agricultural Chemicals,
Inc.**

By 

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Florida Retail Federation

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FEDERAL EXECUTIVE AGENCIES

By  *M. H. [unclear] for Audrey Van Dyke*

Audrey Van Dyke
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Washington Navy Yard, D.C. 20374

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CERTIFICATE OF SERVICE

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