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100437-EI

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**Subject:** Docket No. 100437-EI, PEF CR3  
**Attachments:** FIPUG Response to PEF regarding schedule 12 8 10.pdf

In accordance with the electronic filing procedures of the Florida Public Service Commission, the following filing is made:

a. The name, address, telephone number and email for the person responsible for the filing is:

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b. This filing is made in Docket No. 100437-EI.

c. The document is filed on behalf of The Florida Industrial Power Users Group.

d. The total pages in the document are 6 pages.

e. The attached document is The Florida Industrial Power Users Group's Response to PEF's Motion to Establish Case Scheduling Order.

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**BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

Examination of the outage and replacement  
fuel/power costs associated with the CR3  
steam generator replacement project, by  
Progress Energy Florida, Inc.

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Docket No. 100437-EI

Filed: December 8, 2010

**THE FLORIDA INDUSTRIAL POWER USERS GROUP'S  
RESPONSE TO PEF'S MOTION TO ESTABLISH CASE SCHEDULING ORDER**

The Florida Industrial Power Users Group (FIPUG), pursuant rule 28-106.204 files its Response to Progress Energy Florida, Inc.s' (PEF) Motion to Establish Case Scheduling Order (Motion).<sup>1</sup> FIPUG urges the Commission to set a date certain for this proceeding, or keep the proposed dates in August, to ensure that a decision is reached by the end of 2011 so that the Commission's decision is incorporated into the 2012 fuel factors. In support thereof, FIPUG states:

**INTRODUCTION**

1. In this docket, the Commission will consider the prudence and reasonableness of PEF's actions regarding the extended outage at its Crystal River 3 nuclear plant (CR3). The outage resulted from a steam generation replacement project during which cracks in the CR3 containment building were discovered. This lengthy outage began in September 2009 and CR3 remains out of service today; that is, the CR3 unit, which provides low cost energy to consumers, has now been out of service for over a year and continues to remain out of service.

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<sup>1</sup> FIPUG filed a Petition to Intervene on November 16, 2010.

2. PEF recognizes the extent and seriousness of this outage. It asked the Commission to establish a separate docket and spin this matter out from the regular fuel adjustment hearing.<sup>2</sup>

### **CR3 OUTAGE BACKGROUND**

3. Before discussing PEF's Motion, it is important to review the history of the CR3 outage and the continuing delays in the units return to service. On several occasions, PEF has provided information as to when it expected CR3 to return to service. Each estimate has been wrong. After each erroneous estimate, PEF has provided a new (and later) return to service date estimate.

4. The chronology of the CR3 outage is shown below:

- September 26, 2009: CR3 shut down for refueling and steam generator replacement.
- December 19, 2009: CR3 scheduled to return to service after generator replacement outage.
- January 25, 2010: During the generator replacement, a containment building wall was cracked. PEF tells the Commission it expects CR3 to return to service by mid-year 2010.<sup>3</sup>
- May 5, 2010: PEF announces that CR3 will return to service in the third quarter of 2010.<sup>4</sup>
- August 6, 2010: PEF announces that CR3 will to return to service in the 4<sup>th</sup> quarter of 2010.<sup>5</sup>

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<sup>2</sup> PEF Motion to Establish Separate "Spin-off" Docket to Examine the Outage and Replacement Fuel/Power Costs Associated with the CR3 Steam Generator Replacement Project, filed October 8, 2010, in Docket No. 100001-EI.

<sup>3</sup> PEF Status Update Regarding Crystal River Unit Steam Generator and Replacement Outage, filed January 25, 2010, in Docket No. 100001-EI.

<sup>4</sup> News Release, May 5, 2010.

<sup>5</sup> News Release, August 6, 2010.

- November 30, 2010: PEF announces that CR3 to return to service in the 1<sup>st</sup> quarter of 2011.<sup>6</sup>

5. The above chronology is important for several reasons. First, it demonstrates that PEF has a poor track record of determining when the CR3 unit will return to service to provide low cost service to ratepayers, who are paying for this unit through their base rates. To date, every time PEF has provided a return to service date, it has been in error and the unit remains out of service today.

6. Second, on November 30, 2010, over the objection of the Office of Public Counsel, the Attorney General, FIPUG, and other intervenors, the Commission voted to allow PEF to collect its total replacement power costs related to the CR3 outage from ratepayers and directed that these costs be incorporated into the 2011 factor.<sup>7</sup> Thus, consumers are now being charged for over \$160 million in CR3 replacement power costs *before* the Commission has even determined if such costs are reasonable or prudent in light of the circumstances surrounding the extended outage. This matter must be quickly and expeditiously scheduled so that resolution is reached before new factors are set at the end of 2011.

#### **PEF'S SCHEDULING REQUEST**

7. On October 8<sup>th</sup>, PEF suggested a schedule for this docket (to which the parties agreed) that called for a hearing to be held in August, 2011. This schedule ensured that a hearing would be held in 2011 and that any decision resulting from that hearing would be reflected in the factors set for 2012. A timely decision in 2011 is extremely important to consumers because, as noted above, PEF has been permitted to incorporate into its 2011 factor \$160 million related to

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<sup>6</sup> News Release, November 30, 2010.

<sup>7</sup> Docket No. 100001-EI; no order has been issued yet.

replacement power and fuel purchases due to the extended outage prior to any determination being made as to the appropriateness and prudence of its actions at CR3.

8. In its current Motion, PEF seeks approval of an open-ended schedule. It proposes to link key critical dates to the date CR3 returns to service, whenever that may be (and as noted above, PEF's prior forecasts of CR3's return to service have been in error). The reasonable inference to be drawn from PEF's request is that the date CR3 returns to service will continue to slip, as it has every time PEF has opined on the timeframe.

9. PEF's current prognostication that CR3 will return to service in the first quarter of 2011 means that, according to PEF's proposal, a hearing would not be held until 9 months after CR3 comes back in service. Allowing for briefing, the staff recommendation, an agenda conference and an order, this may result in a decision well beyond 2011, while PEF continues to collect money from customers for CR3 replacement fuel costs.

10. FIPUG urges the Commission to avoid any further delays in this important matter and set a date certain schedule to allow for the case to be timely processed and concluded prior to year end 2011, particularly because ratepayers are now being charged over \$160 million in rates without any showing that PEF's actions related to the CR3 outage were prudent.

**WHEREFORE**, FIPUG requests that the Commission establish a date certain schedule for this proceeding or keep the August dates so that this matter is concluded before the end of 2011.

s/ Vicki Gordon Kaufman

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**CERTIFICATE OF SERVICE**

**I HEREBY CERTIFY** that a true and correct copy of the foregoing The Florida Industrial Power Users Group Response to PEF's Motion to Establish Case Scheduling Order was served by Electronic Mail and United States Mail this 8th day of December, 2010, to the following:

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