**DRAFT – August 26, 2009**

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August \_\_\_, 2009

The Honorable Kimberly D. Bose

Secretary

Federal Energy Regulatory Commission

888 First Street, N.E.

Washington, D.C. 20426

**Re: *Florida Power Corporation*;**

**Revisions to OATT Formula Rate Concerning New Transmission Radials Commencing Service After December 31, 2009**

 **Docket No. ER09-\_\_\_-000**

Dear Secretary Bose:

 Pursuant to Section 205 of the Federal Power Act and Part 35 of the Commission’s regulations, 18 C.F.R. Part 35 (2009), Florida Power Corporation, doing business as Progress Energy Florida, Inc. (“PEF”), hereby tenders for filing revisions to the formula transmission rate (“Formula Rate”) of its Open Access Transmission Tariff (“OATT”) concerning the treatment of new transmission radials commencing service after December 31, 2009. These revisions propose to change the rate treatment for new transmission radials by removing the costs of these radials from the Formula Rate. The costs of a new transmission radial constructed by PEF to serve an OATT transmission customer would be directly assigned to the OATT transmission customer receiving the benefit of the radial.

 PEF respectfully requests that the Commission act on its filing within sixty days after the date of this filing, which is \_\_\_\_\_\_\_\_\_\_, 2009.

# I. Background

 PEF is an investor-owned utility that provides generation, transmission and distribution services to retail customers in the State of Florida. It is also a power supplier for a number of wholesale customers in the State of Florida. PEF provides open access transmission services pursuant to its OATT.

 Under the current provisions of the PEF OATT Formula Rate, the costs of all of PEF’s transmission radials are recovered through the Formula Rate, which is set forth in OATT Schedules 10.2 and 10.3. Therefore, the costs of PEF’s transmission radials serving OATT transmission customers are not directly or otherwise assigned to these customers.

In this filing, PEF proposes to change the rate treatment for new transmission radials commencing service after December 31, 2009 and any upgrades thereto (referred to as “new transmission radials”) by removing the costs of these new transmission radials from the Formula Rate. The costs of new transmission radial constructed by PEF to serve an OATT transmission customer would be assigned to the OATT transmission customer receiving the benefits of the radial.

Therefore, this filing would establish a bifurcated approach to the rate treatment of transmission radials under the OATT Formula Rate. The costs of transmission radial facilities commencing service before January 1, 2010, and upgrades thereto (referred to as “grandfathered transmission radials”), will continue to be recovered in the OATT Formula Rate. The costs of new transmission radials (i.e., transmission radials commencing service after December 31, 2009, and upgrades thereto) will be removed from the Formula Rate and, to the extent the new transmission radial was constructed by PEF to serve an OATT transmission customer, the new transmission radial would be directly assigned to the OATT transmission customer receiving the benefits of the radial.

This filing provides PEF and its OATT transmission customers with comparable treatment of grandfathered transmission radials and new transmission radials - before and after the January 1, 2010 cut-off date. It also provides notice to its OATT transmission customers that PEF will directly assign the costs of new transmission radials constructed by PEF to serve an OATT transmission customer.

# II. Instant Filing

 To implement its rate treatment for new transmission radials, PEF proposes two new OATT attachments and revised OATT Formula Rate sheets. OATT Attachment U includes the general provisions concerning the rate treatment for grandfathered transmission radials and new transmission radials. OATT Attachment U.1 includes the revised OATT Formula Rate sheets required to exclude from the Formula Rate the costs of new transmission radials that are constructed by PEF to serve PEF’s retail load. OATT Attachment U.2 establishes the methodology that PEF will use to directly assigned the lump-sum costs of new transmission radials that are constructed by PEF to serve an OATT transmission customer. The two new OATT attachments and revised OATT Formula Rate sheets are described in greater detail below.

1. **OATT Attachment U**

OATT Attachment U describes PEF’s proposed rate treatment for transmission radial facilities. The costs of grandfathered transmission radials will continue be recovered in PEF’s Formula Rate, which is set forth in Schedules 10.2 and 10.3 of the PEF OATT.[[1]](#footnote-2)[[2]](#footnote-3) The costs of new transmission radials will be excluded from the base rates for transmission services under PEF’s Formula Rate.[[3]](#footnote-4) Attachment U also provides that PEF will assess an OATT transmission customer with a total lump-sum payment to recover the costs of any new transmission radial constructed by PEF to serve the customer’s load, unless another payment method is mutually agreeable to PEF and the customer.[[4]](#footnote-5) If some or all of a new transmission radial is later converted to an integrated transmission facility, PEF’s cost to integrate the facility and the unrecovered cost of the facility would be recovered in PEF’s Formula Rate.[[5]](#footnote-6) If a OATT transmission customer constructs and owns a new transmission radial line to serve its customer load, PEF may agree to operate and/or maintain the radial pursuant to an operating and maintenance agreement that fully compensates PEF for the undertaking.[[6]](#footnote-7)

1. **OATT Attachment U.1**

OATT Attachment U.1 contains changes to the PEF Formula Rate to exclude the costs of new transmission radials constructed by PEF to serve PEF retail load. As indicated in Attachment U, Section b(ii), PEF anticipates that the costs of most new transmission radial facilities constructed by PEF to serve an OATT transmission customer’s load will be assessed to the customer through a total lump-sum payment, unless another payment method is mutually agreeable to PEF and the customer. As a result, the proposed changes to the PEF Formula Rate exclude only the costs of new transmission radials serving PEF retail load. However, if PEF should construct and own a new transmission radial serving an OATT transmission customer’s load and PEF and the customer agree to another payment method for the radial than the lump-sum payment approach, PEF will make a Section 205 filing to amend its Formula Rate to remove the costs associated with these radials from the calculation of the OATT base rates.[[7]](#footnote-8)

PEF has created a separate OATT Attachment U.2 with a duplicate copy of PEF’s OATT Formula Rate in order to highlight the changes to the Formula Rate to reflect the rate treatment for new transmission radials. In this filing, PEF also submits clean and redlined rate sheets for PEF’s actual OATT Formula Rate sheets.[[8]](#footnote-9)

1. **OATT Attachment U.2**

OATT Attachment U.2 establishes the methodology that PEF will use to directly assign costs of new transmission radials that are constructed by PEF to serve an OATT transmission customer. Specifically, Attachment U.2 provides that if and to the extent PEF constructs and owns a new transmission radial to serve an OATT transmission customer, PEF will assess a total lump-sum payment to recover the capital costs of such facility, unless another payment method is mutually agreeable to PEF and the customer, plus an operation and maintenance (“O&M”) charge pursuant to an O&M agreement.[[9]](#footnote-10) If the OATT transmission customer elects to construct and own a new transmission radial to serve its load, it may request, and PEF may agree, that PEF will operate and/or maintain the line pursuant to an O&M agreement that fully compensates PEF for the costs associated with the undertaking.[[10]](#footnote-11) The lump-sum payment and charge for O&M costs will be determined at the time such charges are implemented in accordance with accepted ratemaking principles, either by mutual agreement,[[11]](#footnote-12) or, if such agreement is not possible, by a Section 205 or Section 206 filing with the Commission.[[12]](#footnote-13) Attachment U.2 also provides that a lump-sum payment shall be grossed up for income taxes if PEF is required under applicable law to do so.[[13]](#footnote-14) If a OATT transmission customer requests, PEF will seek a private letter ruling from the Internal Revenue Service approving tax-free treatment for the lump-sum payment.[[14]](#footnote-15) If a new transmission radial that was subject to a lump-sum payment experiences a change in characteristics such that it is no longer deemed a non-integrated radial line and instead meets FERC’s standard for holding that the facility is integrated with the Transmission Provider’s Transmission System, the undepreciated portion of the lump-sum payment shall be refunded to the affected OATT transmission customer, and any O&M charges associated with the radial line will cease.[[15]](#footnote-16) The costs associated with the undepreciated portion of the facility will be recovered in the base rates for transmission services under the PEF OATT Formula Rate.[[16]](#footnote-17)

# III. Effective Date

 PEF requests that two new OATT attachments and revised OATT Formula Rate sheets become effective sixty days after the date of this filing, which is \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, 2009.

# IV. Contents of Filing

 The following documents are included in this filing:

(a) OATT Attachment U (“Attachment 1”);

(b) OATT Attachment U.1 (“Attachment 2”);

(c) OATT Attachment U.2 (“Attachment 3”); and

(d) Clean and redlined PEF OATT Formula Rate sheets for the PEF and PEC OATTs, which incorporate the radials-related changes set forth in OATT Attachment U.1.[[17]](#footnote-18)

# V. List of Persons on Whom this Filing Is Being Served and Pre-Filing Customer Review

 Pursuant to 18 C.F.R. § 385.2010(f)(i) of the Commission’s Regulations, a copy of this filing is being served by electronic means on the Florida Public Service Commission and PEF’s and PEC’s OATT transmission customers. Specifically, on the date of this filing, PEF will submit an e-mail that notifies the Florida Public Service Commission and PEF’s and PEC’s OATT transmission customers that its revisions to the PEF OATT are available from PEF’s OASIS site at http://www.oatioasis.com/FPC/, on the Open Access Transmission Tariff (OATT) Information page, as well as Progress Energy’s corporate website at <http://www.progress-energy.com/aboutenergy/ferc/index.asp>.

 Over three weeks ago, PEF made available draft copies of the filing letter and OATT attachments for this filing to all PEF and PEC OATT customers through e-mail and a posting on PEF’s OASIS site. PEF made these drafts available to the OATT customers in order to provide them with an opportunity to review and comment on the filing in advance of PEF’s filing.

**VI. Miscellaneous**

No costs or expenses in the tariff sheets set forth in this filing that have been alleged or adjudged in any administrative or judicial proceeding to be illegal, duplicative, or unnecessary costs, nor has any expense or cost been demonstrated to be the product of discriminatory employment practices.

**VII. Persons to Whom Correspondence Should Be Addressed**

 The following persons should receive communications regarding this filing:

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**VIII. Conclusion**

PEF respectfully requests that the Commission accept the OATT provisions as just, reasonable and not unduly preferential under Section 205 of the Federal Power Act and grant the requested effective date.

Progress thanks the Commission for its consideration of this filing. Please contact the undersigned if you have any questions.

 Very truly yours,

 Antonia A. Frost

 Linda S. Kizuka

 Counsel for Florida Power Corporation

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1. [↑](#footnote-ref-2)
2. See Attachment U, Section a. [↑](#footnote-ref-3)
3. See Attachment U, Sections b(i) and b(ii). [↑](#footnote-ref-4)
4. See Attachment U, Section b(ii). [↑](#footnote-ref-5)
5. See Attachment U, Sections b(i) and b(ii). [↑](#footnote-ref-6)
6. See Attachment U, Section b(ii). [↑](#footnote-ref-7)
7. See Attachment U, Section b(ii) and Attachment U.1, Exhibit PEF-2, Page 5 of 6, Note T. [↑](#footnote-ref-8)
8. PEF and its affiliate, Carolina Power & Light Company, doing business as Progress Energy Carolinas, Inc. (“PEC”), have a joint OATT. Therefore, PEF is submitting clean and redlined tariff sheets for the PEF Formula Rate for both the PEF OATT and PEC OATT. [↑](#footnote-ref-9)
9. See Attachment U.2, Page 1. [↑](#footnote-ref-10)
10. See Attachment U.2, Page 1. [↑](#footnote-ref-11)
11. If the parties mutually agree to the amount of the lump sum payment and charge for O&M costs, PEF would be required to file those charges at the Commission to obtain its review and acceptance of the charges. [↑](#footnote-ref-12)
12. See Attachment U.2, Page 1. [↑](#footnote-ref-13)
13. See Attachment U.2, Page 2. [↑](#footnote-ref-14)
14. See Attachment U.2, Page 2. [↑](#footnote-ref-15)
15. See Attachment U.2, Pages 2-3. [↑](#footnote-ref-16)
16. See Attachment U.2, Page 3. [↑](#footnote-ref-17)
17. See footnote 8 herein. [↑](#footnote-ref-18)