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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for Determination of Need for Hines Unit 4 Power Plant.)
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_____)

Docket No.: 040817 COMMISSION CLERK

Submitted for Filing: August 5, 2004

PETITION FOR DETERMINATION OF NEED FOR AN ELECTRICAL POWER PLANT

Pursuant to Section 403.519, Fla. Stats., and Rules 25-22.080 and 25-22.081, F.A.C., Progress Energy Florida ("PEF" or the "Company") respectfully petitions the Florida Public Service Commission ("PSC" or the "Commission") for an affirmative determination of need for its Hines 4 power plant. The Hines 4 power plant will be a 517 (winter rating) megawatt ("MW") natural gas-fired, combined cycle unit, and will be located at the Hines Energy Complex ("HEC") in Polk County, Florida. The Company proposes to place the unit in commercial service by December 2007. To this end, PEF filed its supplemental application for Site Certification with the Florida Department of Environmental Protection ("DEP") on August 5, 2004.

PEF is submitting in support of this Petition a Need Study (as Exhibit 1 to the Direct Testimony of Samuel S. Waters), which develops more fully the information required by Rule 25-22.081, F.A.C.

I. Preliminary Information

1. The Petitioner's name and address are:

Progress Energy Florida
100 Central Avenue
St. Petersburg, FL 33701

2. All pleadings, motions, orders, and other documents directed to Petitioner should

be served on the following:

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FPSC-BUREAU OF RECORDS

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3. All pleadings, motions, orders, and other documents served by hand or express courier to Petitioner should be served on the following:

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II. Primarily Affected Utility

4. PEF, the Petitioner for the determination of need, is the utility primarily affected by the proposed power plant. PEF is an investor-owned electric utility, regulated by the

Commission, and is a wholly owned subsidiary of Progress Energy, Inc., a registered holding company under the Public Utility Holding Company Act (PUHCA). PEF serves approximately 1.5 million retail customers in its service area in Florida. Its service area comprises approximately 20,000 square miles in 35 of the state's 67 counties, encompassing the cities of St. Petersburg and Clearwater and densely populated areas surrounding Orlando, Ocala, and Tallahassee. PEF supplies electricity at retail to approximately 350 communities and at wholesale to about 21 Florida municipalities, utilities, and power agencies in the State of Florida.

5. PEF serves one of the faster growing areas of the country. PEF projects that its annual customer growth will be 1.7 percent over the next 10 years. Winter retail sales growth is projected to be approximately 2.0 percent annually during the same period.

6. The Company currently has a total winter net capacity resource of 9,174 MW. This capacity resource includes utility purchased power (474-484 MW), non-utility purchased power (832.7 MW), combustion turbine (3,069 MW), nuclear (788 MW), fossil steam (3,983 MW), and combined cycle plants (1,334 MW). A more detailed description of PEF's generating resources is set forth in Tables 1 and 2 to the Need Study, submitted in support of this Petition as Exhibit 1 to the Direct Testimony of Samuel S. Waters.

7. The Company's total Demand-Side Management ("DSM") resources are shown in Schedules 3.1.1, 3.1.2, 3.1.3, 3.2.1, 3.2.2, 3.2.3, 3.3.1, 3.3.2, and 3.3.3 of PEF's most recent Ten-Year Site Plan (April 2004). These programs include non-dispatchable DSM, interruptible load, and dispatchable load control resources.

8. The Company is part of a nationwide interconnected power network that enables interconnected utilities to exchange power. PEF's transmission system includes approximately 5,000 circuit miles of transmission lines. The Company's distribution system includes about

40,000 circuit miles. Transmission and distribution substations in service have a transformer capacity of approximately 45,000,000 kVA in 614 transformers.

III. Proposed Electrical Power Plant

9. Hines Unit 4 will be a state-of-the-art, natural gas-fired, combined cycle electrical power plant, with expected winter and summer capacity ratings of 517 MW and 461 MW, respectively. The power plant will consist of a 2-on-1 combined cycle unit located at the HEC. The HEC currently is connected to two interstate natural gas pipelines, Florida Gas Transmission ("FGT") and Gulfstream Natural Gas ("Gulfstream"), and Hines 4 will operate on natural gas transported by pipeline to the HEC. With the ability to obtain gas from at least two independent pipelines, the expected need for backup fuel is minimal; however, the Hines 4 turbine will be designed with the capability to burn oil as a backup fuel. Distillate fuel oil, if needed, would be provided from an on-site oil tank dedicated to the Hines 4 unit. The Company will place the unit in service by December 2007.

10. Hines Unit 4 will be a highly efficient, combined cycle unit. It will have an expected equivalent forced outage rate of approximately 3 percent, an expected average summer full load heat rate of approximately 7,079 BTU/kWh and an expected average winter full load heat rate of approximately 7,062 Btu/kWh, and it is expected to operate in a capacity factor range of 50 to 70 percent. A highly efficient, technologically advanced combined cycle unit like Hines 4 can be operated as a base load or intermediate unit on PEF's system, depending on the needs of the system and the prevailing economic conditions. Hines 4 will thus provide PEF with greater flexibility in the overall operation of its system at a low cost and at an industry leading efficiency.

11. Hines 4 will be built at the HEC in Polk County, Florida. The HEC currently contains the Hines 1 and 2 units and associated facilities, and construction of the Hines 3 unit is underway. The existing infrastructure – including access roads, cooling pond, effluent supply pipeline, water treatment and waste disposal, gas laterals, as well as other common facilities and manpower resources – will save the Company and its customers significant engineering, construction, and operating costs in the construction and operation of Hines 4. By constructing the Hines 4 unit at the HEC, the Company will be able to take advantage of economies and operational advantages made possible by the common management and operation of multiple combined cycle units at the same site, using associated site resources. Furthermore, the Company previously obtained Site Certification from the Florida Siting Board for the HEC site in order to build Hines 1, 2, and 3, and ultimately to locate up to 3,000 MW of generating capacity at the site. As a result, PEF need only proceed with a shorter, more streamlined supplemental Site Certification process for the purpose of building Hines 4, which PEF has already initiated with the DEP.

12. The project cost for Hines 4 is estimated to be \$221.5 million in actual dollars, excluding transmission facilities, plus \$27.0 million for Allowance for Funds Used During Construction (“AFUDC”), for a total cost of \$248.5 million. The estimated incremental annual fixed operation and maintenance (“O&M”) expense for Hines 4 is \$1.29/kW-yr (2007\$), the estimated non-maintenance variable O&M is \$0.30/MWh, and the estimated major maintenance variable O&M cost is \$2.14/MWh (based on an average unit capacity of 489 MW and 67% capacity factor) in 2007. The total project cost for Hines 4 reflects significant savings compared with the current generation market for similar combined cycle units.

13. Additional transmission facilities are required, based on PEF's "Transmission Planning Reliability Criteria," Section 4 as filed on FERC Form No. 715 "Annual Transmission Planning and Evaluation Report," to locate Hines 4 at the HEC. To connect Hines 4 at the HEC to Florida's interconnected electrical grid, PEF will construct a 21-mile, 230kV line from Hines to West Lake Wales, expand the Hines Substation, and replace sixteen 230 kV breakers. The estimated cost for these transmission facility projects is \$33.4 million, plus \$4.2 million for AFUDC, for a total cost of \$37.6 million. The additional transmission facilities will be in place prior to the commercial operation of Hines 4.

14. PEF believes that the Hines 4 unit will enable the Company to meet the reliability and economic needs of its ratepayers during its 25 years of expected service and that it will provide a superior source of efficient, low-cost power to the Company's customers during that time.

IV. PEF's Need for Hines Unit 4

15. PEF needs additional generating capacity by Winter 2007/08 to maintain system reliability and integrity, and to meet its commitment to maintain a 20 percent reserve margin. (See Appendix E to PEF's Need Study, Order approving Reserve Margin Stipulation). Hines 4 will enable PEF to continue to provide adequate electricity at a reasonable cost.

16. The addition of Hines 4 will also serve the Company's need to maintain appropriate fuel and operating diversity in its generation fleet, and thus to ensure the reliability and cost-effectiveness of the Company's generation system as a whole. Hines 4 will add diversity to PEF's fleet of generating assets in terms of fuel, technology, age, and flexibility within the dispatch stack. Gas-fired combined cycle unit additions to PEF's generation fleet will generate the best value trade-offs at this time because they are flexible and responsive enough to meet the

challenges of intermediate service while remaining capable of shifting to baseload operations if prevailing economic or operating conditions warrant the shift. Hines 4 will meet these operating requirements, assist in maintaining fuel diversity in the fleet, and further provide PEF with a cost-effective means to meet its Clean Air Act compliance requirements. PEF currently has three other comparable combined cycle units in its fleet, and the use of clean, efficient combustion technology like the Hines combined cycle units reduces PEF's exposure to new environmental rules, constraints, or environmentally related taxes.

17. PEF selected the Hines 4 unit as its next-planned unit after carefully evaluating system needs and planning options through the Company's ongoing Resource Planning process. PEF examined key planning forecasts and assumptions – including forecasts of customer growth, energy consumption, and peak demand – in order to assess the Company's future capacity needs, and the Company analyzed a wide range of supply-side and demand-side alternatives. The Company's Resource Planning process is described more fully in its Need Study and its recent Ten-Year Site Plan (April 2004).

18. PEF developed and analyzed forecasts for long-range electric energy consumption, customer growth, peak demand, and system load shape based on assumptions developed by internal experts and respected, independent sources. In conducting its planning evaluations, PEF used several models and methodologies that incorporate forecasting techniques such as time-series analysis, econometric modeling, and direct contact with customers. All are accepted and widely used in the electric utility industry. The specific methodologies and forecasts are discussed in more detail at pages 20-27 of the Need Study and in the Company's Ten-Year Site Plan (Chapters 2 and 3). The summer peak demand forecasts and winter peak demand forecasts

are also set forth in the Ten-Year Site Plan. (See Schedules 3.1.1, 3.1.2, 3.1.3 and 3.2.1, 3.2.2, 3.2.3, respectively).

19. Without the Hines 4 unit, PEF's projected Reserve Margin for winter 2007/08 would be 19 percent, and it will decrease to 16 percent by winter 2008/09 without Hines 4. As demonstrated in Exhibit ___ (SSW-2) to Samuel S. Waters' testimony, filed herewith, PEF's reserve margins for that period and the following years will exceed the agreed minimum 20 percent reserve margin planning criterion if the Hines 4 unit is brought into commercial service by December 2007.

20. In order to meet its reserve margin planning criterion, and to comply with the directives of the Florida Energy Efficiency and Conservation Act ("FEECA"), the Company relies upon dispatchable demand-side resources to reduce the "firm" load that must be protected by planning reserves. However, the Company has learned that, when interruptions in service increase in frequency, customers are less willing to accept dispatchable service in return for lower rates. For this reason, the Company has undertaken to reduce its reliance on these dispatchable load control alternatives. As developed more fully in the DSM Goals and DSM Plan Dockets, No. 971005-EG and No. 991789-EG, respectively, PEF revised its Energy Management program in favor of adding more generating assets to its total reserves. PEF's DSM Plan is included in Appendix B to the Need Study. The Company's DSM Plan was approved by the PSC in Order No. 00-0750-PAA-EG, Docket No. 991789-EG, issued on April 17, 2000. A copy of that Order is provided in Appendix C to the Need Study.

21. Under its revised Energy Management program, PEF moved from a year-round load control program to a winter-only program. The year-round Energy Management program was closed to new customers and has gradually been reduced. This creates a need for additional

supply-side reserves, in the form of the capacity of the Hines 4 unit. This is consistent with the Company's commitment to carry more supply-side assets as part of its total reserves than it has in the past. Although PEF continues to believe that its dispatchable demand-side resources provide an important and cost-effective resource when appropriately used, PEF will be counting more in the future on generating units to meet its customers' needs than on the expectation that customers participating in the Company's Energy Management program will accept frequent interruptions in service in accordance with their non-firm service provisions. For this reason, Progress Energy Florida is planning to rely more on additional physical reserves to ensure a reliable power supply than on the consent of customers to interruptions in service for reduced tariffs. Based on projected load growth, the addition of Hines 4 will increase the Company's share of physical reserves to approximately one half of total reserve capacity (which includes DSM) in the winter of 2007/08, a level of physical reserves sufficient to maintain coverage of an unplanned outage of the fleet's largest unit.

V. Major Generating Alternatives Examined and Evaluated

22. In selecting the Hines 4 unit as its next-planned supply-side alternative, PEF examined, evaluated, and ultimately rejected other conventional, advanced, and renewable generation resources as potential capacity addition alternatives. As described more fully in PEF's Need Study (pp. 32-39), the Company assessed numerous renewable technologies (wind energy conversion, solar photovoltaic cells, wood chip, tire burning, and municipal solid waste); advanced technologies (atmospheric fluidized bed combustion, coal gasification/combined cycle, advanced light water nuclear, and fuel cells); and conventional technologies (pulverized coal, combustion turbine, and combined cycle). As a result of PEF's initial assessment of these alternatives, the Company narrowed its options to viable generation alternatives.

23. The Company conducted a more detailed economic screening of the identified viable generating alternatives using the PROVIEW optimization program. (See Need Study, pp. 39-41 and Tables 6 and 7). The PROVIEW model assessed the Company's seasonal reserve margins and automatically added resources to meet the prescribed minimum reserve margin requirements. The top five generation expansion plans from the PROVIEW modeling appear in Table 8 of the Need Study. In the top ranked plan, Hines 3 is shown in service in late 2005, three combustion turbines in 2006, Hines 4 in late 2007, Hines 5 in late 2009, Hines 6 in May 2010, and unsited combined cycle units in late 2012 and late 2013, respectively. This plan was chosen by PEF as the Integrated Optimal Plan and was also published as the Base Expansion Plan in the Company's 2004 Ten-Year Site Plan filed with the PSC on April 1, 2004. In addition, sensitivity analyses were performed, all of which led to the decision that Hines 4 was the Company's next-planned generating unit.

24. The Hines 4 power plant alternative offered a number of benefits that PEF could not obtain with other alternatives, including proven technology, high efficiency, environmental benefits, and high cost-effectiveness. For these reasons, many utilities and non-utility developers have preferred natural gas-fired, combined cycle power plants for new capacity additions. In addition, PEF had an opportunity to take advantage of favorable equipment terms for the major equipment that the Company negotiated at a time when the power plant equipment market was depressed. As a result, the Hines 4 unit option is extremely cost-effective.

25. Having selected the Hines 4 unit as its next-planned generating alternative, the Company undertook to solicit competitive alternative proposals from third parties, pursuant to Rule 25-22.082, F.A.C. The procedures followed in issuing the Request for Proposal ("RFP")

and evaluating the responses are described in detail in the Direct Testimony of Daniel J. Roeder, submitted in support of this Petition and at pages 42 to 79 of the Need Study.

26. The Company implemented its 2007 RFP on September 10, 2003 with the publication of a notice of its request for proposals for supply and its next planned generating unit in newspapers of state and national circulation and electronically to interested persons, including the Office of Public Counsel and the Commission Staff. A press release was also published about the RFP and an RFP website was made public. Draft versions of the RFP Solicitation Document and Response Package were made available on the RFP website for downloading. A Pre-Issuance meeting was held on September 23, 2003, to discuss the RFP requirements and potential RFP participants could and did participate in the meeting in person or via conference call. The RFP documents were subsequently revised or clarified, taking into account the questions and comments at the Pre-Issuance meeting. All questions and answers were also posted on the RFP website.

27. The RFP package was issued on October 7, 2003. (See Appendix H and I to the Need Study). More than 80 copies of the RFP package were downloaded from the RFP website prior to the date proposals were due. Potential bidders were asked, but not required, to submit a Notice of Intent (NOI) to bid form by October 14, 2003. PEF used the NOI forms to ensure that bidders received all information pertaining to the RFP. NOI forms were received from nine potential bidders.

28. PEF held a Bidders' Conference on October 21, 2003. The purpose of the Bidders' Conference was to allow interested parties the opportunity to ask questions and seek additional information or clarification about the solicitation process. All questions and the corresponding

answers were posted on the RFP website shortly after the Bidders' Conference. The "Q&A" section of the RFP website was updated as additional questions were posed to PEF.

29. In its RFP, the Company described Hines 4 as its next-planned generating alternative and invited interested persons to make alternative proposals to PEF that might offer superior value and other attributes. To open up the RFP to more participants and provide the opportunity for more creative proposals: (1) there was no minimum capacity requirement (in the Hines 3 RFP, there was a 100 MW minimum); (2) bidders were allowed to have a start date as early as December 1, 2006, a year before Hines 4 is to be placed in service; (3) bidders were allowed to increase the capacity of the proposal after the first year; and (4) bidders were allowed to meet their fuel obligations by proposing a fuel tolling arrangement whereby PEF would be responsible for acquiring fuel for the project. The RFP package also included, among other items, a detailed description of PEF's multi-phase solicitation and evaluation process and a description of the information to be provided by the bidders with instructions on how to complete the schedules provided to the bidders.

30. Rule 25-22.082(12), F.A.C. (the "Bid Rule"), allows potential bidders to file objections to the RFP for alleged violations of the Bid Rule within ten (10) days of the issuance of the RFP. No objections were filed with the Commission regarding the 2007 RFP for Hines 4.

31. On December 16, 2003, five proposals were received from four bidders. In addition, one of the bidders provided two variations to its proposal. For ease of reference, PEF also referred to the two variations as proposals, yielding then a total of seven proposals. PEF is submitting detailed descriptions of the proposals on a confidential basis to the PSC as Appendix J to the Need Study.

32. PEF conducted an initial evaluation of each of the seven proposals to determine whether they met the Threshold Requirements identified in Table IV-1 of the RFP. None of the proposals initially passed the Threshold Requirements screening process without deficiencies; all but one of the proposals required at least some clarification to satisfy the Threshold Requirements. One proposal simply did not pass the Threshold Requirements.

33. The Company informed the bidders of their various deficiencies and requested additional clarification on portions of their proposals. At the same time, the Company provided revised cost and operating characteristics associated with Hines 4 and provided the bidders the opportunity to revise their proposals. All of the bidders submitted clarifications and additional information to pass the Threshold Requirements screening. One bidder lowered its prices.

34. The Company conducted an initial economic screening of the six remaining proposals to determine whether any were economically "out of line" compared to the other proposals in isolation and, further, what the impact of each proposal would be on the total PEF system compared to a Base Case (the Base Case was an optimal resource plan assuming generic units available for additional capacity and, therefore, Hines 4 was not included in the Base Case resource plan).

35. The Company next evaluated each proposal from a technical perspective to ensure that they satisfied the Minimum Evaluation Requirements. The Company also applied the Technical Criteria stated in the RFP. The Minimum Evaluation Requirements were mandatory, while the Technical Criteria were desirable, but not mandatory. The Minimum Evaluation Requirements are described at pages 59 to 62 and in Table 12 of the Need Study, and the Technical Criteria are described at pages 62 to 66 and in Table 14 of the Need Study.

36. All of the remaining proposals met the Minimum Evaluation Requirements. The results of the evaluation of the Minimum Evaluation Requirements are shown in Table 13 of the Need Study. All of the bidders were ranked relative to each other based upon the Technical Criteria. The results of this ranking of the proposals are shown in Table 15 of the Need Study.

37. The Company used the results of the technical evaluation and economic screening and optimization analysis to develop a "Short List" of proposals. Although it may have been possible to exclude one or more of the bidders from the Short List based upon cost, the Company elected not to eliminate any bidder based upon that criterion alone, and instead included on the Short List the proposal from each bidder that was most economically viable. The Short List thus included four of the six remaining proposals, excluding the one proposal that did not satisfy the Threshold Requirements.

38. The Company notified the bidders on March 5, 2004, of their selection for the Short List. A Company representative also notified the Commission of the Short List on March 5, 2004.

39. Upon being notified of their selection to the Short List, bidders were provided with a list of questions for clarification or requests for additional information based upon the technical evaluation of their proposals. The Company provided the bidders ten (10) days to respond to these requests, and at the same time informed them the Company was revising its operating characteristics and thus lowering its cost estimate for Hines 4, based upon more current and detailed analyses prepared for the April 2004 Ten-Year Site Plan. PEF provided the bidders the opportunity to reduce the prices in their proposals, if they so desired, and only one bidder revised its prices.

40. Using the most up-to-date information supplied by bidders on the Short List, the Company performed a Detailed Evaluation to compare each proposal to the Company's self build alternative, Hines 4. The Detailed Evaluation included finalizing the Technical Evaluation using additional information provided by the bidders, evaluating the transmission impacts of the proposed plants, and a detailed economic analysis, which included detailed production costing and financial analyses. The final results of the Technical Evaluation are described at pages 68 to 69 and Table 16 of the Need Study and in the Direct Testimony of Daniel J. Roeder.

41. In addition to the Technical Evaluation, detailed economic analyses were performed on all of the short-listed proposals and Hines 4. Using the PROSYM model, the Company separately evaluated and ranked each proposal and Hines 4, based upon the incremental cumulative present value of associated revenue requirements. The detailed economic analysis established that Hines 4 was approximately \$55 million less expensive (in 2004 dollars) than the least cost proposal on the Short List. The results of the detailed economic analysis are described at pages 72 to 79 and Figures 11, 12, and 13 of the Need Study and in the Direct Testimony and Exhibits of Daniel J. Roeder.

42. Based on the Company's thorough analysis of numerous supply-side technology options and the bids made to the Company during the RFP process, PEF concluded that the Hines 4 unit is by far the most cost-effective supply-side alternative available to it.

VI. Viable Non-Generating Alternatives

43. Apart from conducting an extensive screening of supply-side alternatives, PEF also scrutinized viable non-generating, demand-side alternatives before deciding to build the Hines 4 unit. The Company's PSC-approved DSM Plan, in the DSM Plan Docket, No. 991789-EG, is included as Appendix B to the Need Study, and the PSC's order approving PEF's DSM Plan is

included as Appendix C to the Need Study. In its DSM Plan, PEF evaluated and proposed various demand-side strategies that comply with FEECA and Commission-approved tests of cost-effectiveness. As PEF demonstrated more fully in its DSM Plan, the Company projects that it will be able to reduce peak demand and energy consumption through the viable DSM measures reasonably available to it. The reduction in demand and energy expected by the Company is nonetheless insufficient to ameliorate PEF's need to add supply-side resources to its system. Thus, the Company concluded that it must build Hines 4 (or obtain an equivalent commitment of supply-side resources) in order to meet its needs discussed in Part IV above.

VII. Adverse Consequences of Delay

44. If the Hines 4 unit is delayed, PEF would not be able to satisfy its minimum 20 percent Reserve Margin planning criterion by the winter of 2007/08 in the most reliable and cost-effective manner. This would expose PEF's customers to a greater risk of interruption of service in the event of unanticipated forced outages or other exigencies for which PEF maintains reserves. Delay would further subject PEF's customers to higher fuel costs without the efficient Hines 4 unit as less efficient units are used to serve their needs.

VIII. Disputed Issues of Material Fact

45. PEF is not aware at this time that there will be any disputed issues of material fact in this proceeding. Through its testimony and exhibits, PEF expects to demonstrate that the proposed unit satisfies the statutory criteria set forth in Section 403.519, Fla. Stats.

IX. Conclusion

46. PEF seeks an affirmative determination of need for the Hines 4 power plant to meet the Company's need for electric system reliability and integrity and to enable the Company to continue to provide adequate electricity to its ratepayers at a reasonable cost. PEF determined to

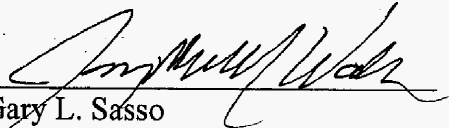
seek this approval only after conducting a rigorous internal review of supply-side and demand-side options, and after soliciting and evaluating competing proposals submitted by interested third-party suppliers. The Company has attempted to avoid or defer constructing the unit by considering and pursuing demand-side options reasonably available to it, but the Company has nonetheless concluded that it cannot avoid or defer its need to build the unit.

47. The Hines 4 unit will be a state-of-the-art, highly efficient, environmentally benign unit, and it will be built at a site planned and well suited for expansion of PEF's generation system. The unit is the most cost-effective alternative available to PEF. It will provide needed diversity, efficiency, and cost-effectiveness to the Company's fleet. For all these reasons, and for the reasons developed more fully in PEF's Need Study and supporting appendices and tables, and its pre-filed testimony and exhibits, PEF respectfully requests that the PSC grant a favorable determination of need for the Hines 4 unit.

48. Pursuant to Rule 25-22.080(2), F.A.C., the Company respectfully requests that, within seven days, the Commission set a date no later than November 3, 2004, for commencement of a hearing on this Petition; that the Commission give notice of the commencement of the proceeding as required by Rule 25-22.080(3), F.A.C.; and that the Commission determine that there is a need for the proposed electrical power plant described in this Petition, and file its order making such determination with the Florida Department of Environmental Protection pursuant to Section 403.507(2)(a)2, Fla. Stats.

Respectfully submitted this 5th day of August 2004.

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