

Timolyn Henry

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 Sent: Monday, October 30, 2006 4:53 PM
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 Subject: Petition to Intervene Docket No. 060635
 Attachments: Petition2 cvr letter.doc; Petition to Intervene_TowlesEzell_DN060635.doc

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October 30, 2006

Blanca Bayo
 Director, Office of the Commission Clerk
 Florida Public Service Commission
 2540 Shumard Oak Blvd
 Tallahassee, Florida 32399-0850

RE: Docket No. 060635-EU,
 Petition for determination of need for Electrical power plant in Taylor County
 By Florida Municipal Power Agency, JEA, Reedy Creek Improvement District,
 and City of Tallahassee.

Dear Ms. Bayo:

On behalf of the Joy Towles-Ezell I have enclosed for filing the Petition for Intervention,
 consisting of seven pages. I thank you for your attention to this matter.

Sincerely,

/s/ E. Leon Jacobs, Jr.

E. Leon Jacobs, Jr.
 Attorney for Joy Towles-Ezell

- CMP _____
- COM _____
- CTR _____
- ECR _____
- GCL _____
- OPC _____ Enclosures
- RCA _____
- SCR _____
- SGA _____
- SEC 1
- OTH *Jim P*

10/30/2006

DOCUMENT NUMBER-DATE

09991 OCT 30 06

FPSC-COMMISSION CLERK

ORIGINAL

WILLIAMS, JACOBS, & ASSOCIATES

ATTORNEYS AT LAW
P.O. BOX 1101
TALLAHASSEE, FL 32302

MOSES WILIAMS, ESQ.

E. LEON JACOBS, JR., ESQ.

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E. Leon Jacobs, Jr.
Attorney for Joy Towles-Ezell

Enclosures

DOCUMENT NUMBER-DATE

P.O. BOX 1101

TALLAHASSEE, FLORIDA 32302

(850) 491-2710

Email: ljacobs50@comcast.net

09991 OCT 30 06

FPSC-COMMISSION CLERK

BEFORE THE PUBLIC SERVICE COMMISSION

In re: Petition for determination of need for
Electrical power plant in Taylor County by
Florida Municipal Power Agency, JEA, Reedy
Creek Improvement District, and City of
Tallahassee.

DOCKET NO.: 060635 EU

PETITION TO INTERVENE

Petitioner Joy Towles-Ezell, pursuant to Chapter 120, Florida Statutes, and Rules 25-22.039 and 28-106.205, Florida Administrative Code, and, by and through her undersigned counsel, hereby files this Petition to Intervene in the above-styled docket. Ms. Towles-Ezell is a member of the Sierra Club and a leading activist and avid proponent of the development of renewable/clean sources of energy as alternatives to electricity produced by fossil fuels. Ms. Towles-Ezell has a vital interest in the manner in which new fossil plants are approved in Florida because this process is also the essential forum in which the economic viability of alternative energy resources are determined. In effect, if renewable and alternative energy sources can not be shown to be a reasonably available alternative to the power plant proposed, under section 403.519, Florida Statutes, then these resources, for all intents and purposes, fall out of the state's energy portfolio. Ms. Towles-Ezell's interests will be directly affected by the Commission's decisions in this docket, thus entitling her to intervene to protect her substantial interests. In further support of their Petition, Petitioner states:

DOCUMENT NUMBER-DATE

09991 OCT 30 08

FPSC-COMMISSION CLERK

1. The name and address of Petitioner is:

Joy Towles-Ezell
12677 Josh Ezell Rd
Perry, Florida 32348

2. All pleadings, correspondence, orders and testimony should be directed to
Petitioner's counsel as follows:

E. Leon Jacobs, Jr., Esq.
Williams & Jacobs
1720 S. Gadsden Street, MS 14, Suite 201
P.O. Box 1101
Tallahassee, Florida 32302
850-222-1246 telephone
850-599-9079 fax
Email: ljacobs50@comcast.net

3. The name and address of the affected agency is:

Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850

4. Petitioner Towles-Ezell is a leading and renowned public advocate for the expansion of renewable and clean energy in North Florida specifically, and generally throughout the state. The overall cost of electricity has become extremely unstable, due largely to recent volatility in the prices of fossil fuels used to generate electricity. This trend is especially prominent in Florida because all of the fossil fuels used to generate electricity must be imported into Florida, via expansive transportation and delivery infrastructures. Florida has been subjected to more frequent and serious weather events which have disrupted the supply and delivery of these fossil fuels and further exacerbated the volatility in the costs of electricity to consumers. As one of the principal advocates

of alternatives to generation of electricity by fossil fuels, Petitioner Towles-Ezell joins other Sierra Club members in seeking greater use of alternative electricity resources, of conservation, and of demand-side management in order to offset all or part of the proposed plant. There is a growing likelihood that if the economic analysis under section 403.519, Florida Statutes, does not establish the viability of alternative energy resources, then such resources will continue to have a limited impact on Florida's energy portfolio, and consumers will continue to incur the risk of volatile prices associated with electricity generated using fossil fuels. The proponents of the plant in this docket have determined that there are no reasonably available alternatives to building this fossil fuel plant, yet around the nation, there is growing proof that renewable energy, demand-side management, and conservation represent real, cost-effective alternatives to fossil fuel plants. Moreover, there are reputable economic analyses which demonstrate that the underutilization of these measures results in tremendous lost savings to consumers. Petitioner Towles-Ezell proposes a fuller analysis, with more rational assumptions for the cost inputs of building the fossil plant, in reaching such a vital conclusion as it relates to the prospect of real advancement of alternative energy resources.

5. Statement of Affected Interests. Petitioner's interests are of the type that this proceeding is designed to protect. Ameristeel Corp. v. Clark, 691 So. 2d 473 (Fla. 1997); Agrico Chemical Co. v. Department of Environmental Regulation, 406 So.2d 478 (Fla. 2d DCA 1981), reh. denied, 415 So. 2d 1359 (Fla. 1982); Florida Home Builders Ass'n v. Dep't of Labor and Employment Security, 412 So. 2d 351, 353-54 (Fla. 1982). The Commission will decide in this docket whether it should certify the need for a 765 MW pulverized coal and petroleum coke electric generating plant, located in Taylor

County, Florida, and called the Taylor Energy Center (“TEC”). The TEC will be owned by the Jacksonville Electric Authority (“JEA”), Florida Municipal Power Agency (“FMPA”), City of Tallahassee (Tallahassee), and Reedy Creek Improvement District (“RCID”). (hereinafter “Owners”) Under Florida law and Florida Public Service Commission (“FPSC”) precedent, the FPSC must assess: (i) the need for the power proposed in this docket; (ii) whether other cost-effective alternatives exist to provide power; (iii) whether the proposed plant is the most cost-effective alternative available; (iv) whether conservation and other demand-side management (“DSM”) measures are reasonably available to mitigate the need for the proposed plant, and (v) whether the power generated by the proposed plant can be produced with the least risk of all alternatives.

6. Disputed Issues of Fact.¹ Petitioner oppose the relief sought by the Owners and ask that the FPSC conduct a full and complete analysis as contemplated in paragraph 5 above. Petitioner asserts that that the material issues of fact in this proceeding should include, but not be limited to, the following:

- a. *Whether the legislative intent in SB 888, Section 1, which states that the advancement and development of renewable energy technologies and energy efficiency is important for the state’s future, its energy stability, and the protection of its citizens, is an element of the cost analysis in section 403.519, Florida Statutes? In recognition of the growing risks in energy policy, particularly with respect to coal-fired electric plants, state and federal agencies are actively encouraging more diverse and environmentally friendly electric supply options, including demand-side options. There appears to be little if any consistency with these initiatives in this proposed plant.*

¹ Petitioners reserve the right to rephrase the issues presented herein, and to raise additional issues pursuant to FPSC rule, procedural order or CASR.

- b. *How should the assumptions and cost inputs to the economic analysis conducted in section 403.519 proceeding be modified to accommodate SB 888's intent?*

The Petitioner is deeply concerned that in a very dynamic energy policy environment, where shifts in policy and technology are quickly emerging, this proposed plant is completely out of step, relying on prior standards, minimal innovation, and stands to significantly retard the expansion of alternative energy resources.

7. Statement of Ultimate Facts Alleged. The Owners must meet the requirements of Rules 25-22.080, and 25-22.081, Florida Administrative Code. Before certifying the need for the TEC as proposed by the Owners, and ultimately, the FPSC must ensure that the plant is a prudent plant addition. The analysis proposed by the Owners does not adequately assess the importance and economic value of alternative energy resources. The FPSC should ensure consistency with emerging state and federal energy policy initiatives by promoting in this proceeding an integrated energy plan. This particularly requires that an integrated analysis be conducted using proper values for alternative sources of supply, for DSM, and particularly for conservation. Throughout the state, the nation and world, policy makers are clear that the costs of energy must be better managed. The FPSC must ensure a positive first step in managing electric generation costs with the approval of truly prudent, affordable costs for new power.

8. Statutes and Rules that Require the Relief Requested. Statutes and rules that require the relief requested by Petitioners include, but are not limited to, Chapter 120, and section 403.519, Florida Statutes, and Rules 25-22.039, 28-106.205, 25-22.080, and 25-22.081, Florida Administrative Code.

9. Statement Explaining How the Facts Alleged by Petitioners Relate to the Above-Cited Rules and Statutes in Compliance with Section 120.54(5)(b)4.f, Florida Statutes. Rules 25-22.039 and 28-106.205, F.A.C., provide that persons whose substantial interests are subject to determination in, or may be affected through, an agency proceeding are entitled to intervene in such proceeding. Petitioner Towles-Ezell is a vital and central voice to the expansion of alternative energy resources, and the decision in this docket is vitally important to the future economic viability of alternative energy resources, and thereby to the overall economic well-being all consumers. Accordingly, Petitioner Towles-Ezell is entitled to intervene herein.

WHEREFORE, Petitioner requests that the FPSC enter an order granting Petitioner's petition to intervene.

DATED THIS 27th DAY OF OCTOBER, 2006.

Respectfully submitted,

/s/ E. Leon Jacobs

E. Leon Jacobs, Jr.
Williams, Jacobs & Associates, LLC
P.O. Box 1101
Tallahassee, Florida 32302
(850) 222-1246
Fla. Bar ID. 0714682
Attorney for Petitioners

Certificate of Service

I certify that a copy of this Petition to Intervene in Docket No. 060635-EU was provided this 27th day of October, 2006, by electronic service and by regular mail to the following:

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