

Matilda Sanders

ORIGINAL

From: ljacobs50@comcast.net
Sent: Tuesday, November 14, 2006 3:50 PM
To: Filings@psc.state.fl.us
Cc: GPerko@hgslaw.com; CRaepple@hgslaw.com; brett@wildlaw.org; barmstrong@ngn-tally.com; jeanne@wildlaw.org; psimms@nrdc.org; Katherine Fleming; Jennifer Brubaker; Harold Mclean
Subject: Sierra Club Statement of Positions and Issues
Attachments: Sierra stmt of issues.doc

Please see the attached.

Thank Yoy

Leon Jacobs

CMP _____
 COM 5
 CTR _____
 ECR _____
 GCL _____
 OPC _____
 RCA _____
 SCR _____
 SGA _____
 SEC 1
 OTH _____

DOCUMENT NUMBER-DATE

10462 NOV 14 06

FPSC-COMMISSION CLERK

11/14/2006

WILLIAMS, JACOBS, & ASSOCIATES

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

MOSES WILIAMS, ESQ.
ESQ.

E. LEON JACOBS, JR.,

November 14, 2006

ORIGINAL

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 Sierra Club, Inc., John Hedrick and Bruce Lupiani, enclosed please find for filing the Preliminary Statement of Positions and issues 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 the Sierra Club, Inc., John Hedrick, and Brian Lupiani

Enclosures

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
DATED: November 14, 2006

THE SIERRA CLUB, INC., JOHN HEDRICK, AND BRIAN LUPIANI
PRELIMINARY STATEMENT OF ISSUES AND POSITIONS

Petitioners The Sierra Club, John Hedrick, Barry and Brian Lupiani ("Petitioners"), by and through their undersigned counsel, hereby submit their proposed issues of fact and positions which the Florida Public Service Commission should resolve in determining the need for the Taylor Energy Center (TEC"), as proposed by applicants.

I. Background

Owners of the proposed TEC project, Jacksonville Electric Authority (JEA), the City of Tallahassee, the Reedy Creek Improvement District (RCID), and the Florida Municipal Power Agency (FMPPA), filed a Petition for a Determination of Need on or about September 19, 2006. By Order dated October 4, 2006 FPSC established procedures for the above captioned docket; among other things the Commission required interveners to file testimony and associated exhibits by October 24, 2006. The Sierra Club, John Hedrick and Brian Lupiani have been granted intervention by the FPSC. The FPSC modestly adjusted the deadline for filing of Intervenors' testimony and associate exhibits to November 2, 2006.

DOCUMENT NUMBER-DATE
10462 NOV 14 06
FPSC-COMMISSION CLERK

II. Preliminary Issues and Positions

1. **ISSUE:** Whether the request for proposals issued by each of the co-owners of the Taylor Energy Center included reasonable inputs and assumptions and projections as to the capital costs, operating and maintenance costs and fuel costs for the “self-build” option for the Taylor Energy Center?

Position 1: The co-owners have not included objective and reasonable inputs, assumptions and projections as to their capital, O&M or fuel costs in their requests for proposals or application for determination of need.

2. **ISSUE:** Whether the projections by the co-owners of the Taylor Energy Center in their respective request for proposals, and in the application for determination of need adequately adjusted for recent volatility in the capital costs for building pulverized coal plants, volatility in the market prices of coal to supply the TEC, and the volatility of transportation costs for coal delivered to the TEC.

Position 2: The co-owners have not adequately adjusted their projections to account for the degree of volatility the electric industry is presently experiencing in the capital costs to build coal plant, nor have they accounted for true volatility in the commodity prices of coal to supply the plant, or the transportations costs to deliver fuel to the plant.

3. **ISSUE:** Whether the co-owners have information, documentation or reasonable expectation of difficulties in the delivery logistics and infrastructure for delivery of coal to fuel the TEC?

Position 3: The co-owners have overwhelming information, documentation and should have more than reasonable expectations that there will be difficulties experienced in the logistics and infrastructure improvements to ensure adequate delivery of coal to the TEC site.

4. **ISSUE:** Whether the projections by the co-owners of the Taylor Energy Center in their respective request for proposals, and in the application for determination of need adequately addressed the cost impact of disruptions in coal delivery which result from existing dysfunction in the rail delivery operations in the US, or from delayed or inadequate upgrades and improvements to infrastructure, or from severe weather events?

Position 4: The co-owners have severely underestimated the cost impacts to O&M expenses that will result from dysfunctions experienced in the delivery of coal to the TEC site.

5. **ISSUE:** Whether the least-cost analyses conducted by each of the co-owners of TEC included reasonable inputs, assumptions and projections?

Position 5: The least-cost analysis conducted by the co-owners of TEC consisted of the request for proposals. To the extent that the inputs, assumptions and projections included in the RFP underestimated, and are not truly reflective of the costs the co-owners will incur if they build the TEC, the results were biased in the co-owners' favor, and thus, the analysis is inadequate.

6. **ISSUE:** Whether the co-owners conducted modeling of alternative sources of supply, demand-side management, conservation, energy efficiency or demand-side management initiatives to determine if they provided lower cost alternatives, individually or as a portfolio, to serve the load to be served by the TEC, and to defer TEC?

Position 6: Information made available from the co-owners does not indicate that modeling of alternative sources of supply, demand-side management, conservation, energy efficiency or demand-side management initiatives was conducted to assess whether a portfolio would result in a lower cost to serve the load to be served by the TEC.

7. **ISSUE:** If the answer to issue 6 is “Yes”, whether reasonable and adequate inputs, variables and assumptions were used in these models?

Position 7: See Position 6.

8. **ISSUE:** If the answer to issue 6 is “no”, whether the request(s) for proposal conducted by the co-owners adequately evaluated alternative sources of supply, demand-side management, conservation, energy efficiency or demand-side management initiatives as lower cost alternatives?

Position 8: Because the co-owners determined that no resources were available, it does not appear that the RFP proposed or allowed vendors to consider these alternatives at all.

9. **ISSUE:** Whether the petition for determination of need adequately accounts for external costs of emissions compliance for the proposed pulverized coal plant?

Position 9: The co-owners have grossly understated the compliance obligations that the TEC will face, and thus severely underestimated the external costs that it will face.

10. **ISSUE:** Whether the petition for determination of need recognizes social and regulatory compliance costs imposed by SB 888?

Position 10: The information provided by co-owners does not indicate that SB 888 was given any consideration in their application.

11. **ISSUE:** Whether the least-cost analysis conducted by the co-owners attributes value to alternative sources of supply, to energy efficiency, to conservation and to DSM for avoidance of emissions and other compliance costs?

Position 11: The information provided by co-owners does not indicate that these initiatives were attributed value because they would allow the co-owners to avoid compliance costs.

12. **ISSUE:** Whether the least-cost analysis conducted by the co-owners attributes value to alternative sources of supply, to energy efficiency, to conservation and to DSM for avoidance of transmission, distribution and coal transportation costs for the TEC?

Position 12: The information provided by co-owners does not indicate that the least cost analysis or the RFP process attributed value to these initiatives because they would allow the co-owners to avoid transmission, distribution and coal transportation costs for the TEC.

13. **ISSUE:** Whether the co-owners have information, documentation or reasonable expectation of enhanced regulation of green-house gas (GHG) to impact the operating costs of TEC, before or at the time TEC becomes operational?

Position 13: The co-owners have overwhelming information, documentation and should have more than reasonable expectations that the TEC will face substantially greater regulation of GHGs well before the time TEC becomes operational.

14. **ISSUE:** Whether the co-owners have adequately estimated and quantified the impact of enhanced GHG regulation on the operating costs of TEC?

Position 15: The co-owners have dramatically understated the full economic, and direct cost impact of enhanced GHG regulation on the operating costs of TEC.

Respectfully submitted this 14th day of November, 2006.

Certificate of Service

I certify that a copy of this Preliminary Statement of Positions and Issues in Docket No. 060635-EU was provided this 14th day of November, 2006, by electronic service to the following:

Gary V. Perko
Carolyn S. Raepple
Hopping Law Firm
P.O. Box 6526
Tallahassee, Florida 32314

Harold A. McLean, Esq.
Office of Public Counsel
111 West Madison Street
Room 812
Tallahassee, FL 32399-1400

Jeanne Zokovitch Paben
Brett M. Paben
Wildlaw
1415 Devil's Dip
Tallahassee, Fl

Jennifer Brubaker, Esq.
Katherine Fleming, Esq.
Legal Division
Florida Public Service Commission
2540 Shumard Oak Blvd.
Tallahassee, FL 32399-0850

Bryan Armstrong
7025 Lake Basin Road
Tallahassee, FL 32312

Patrice L. Simms
National Resources Defense Council
1200 New York Ave., NW
Suite 400
Washington, DC 20005

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