

# ORIGINAL

**Timolyn Henry**

**From:** Rhonda Dulgar [rdulgar@yvlaw.net]  
**Sent:** Monday, December 18, 2006 3:54 PM  
**To:** Filings@psc.state.fl.us  
**Subject:** Fwd: Electronic Filing - Docket No. 060642-EI  
**Attachments:** FRF.PrehearingStatement.Dec18.doc

>>> Rhonda Dulgar 12/18/06 3:42 PM >>>  
 a. Person responsible for this electronic filing:

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b. Docket No. 060642-EI

Petition for determination of need for expansion of Crystal River 3 nuclear power plant, for exemption from Bid Rule 25-22.082, F.A.C., and for cost recovery through fuel clause, by Progress Energy Florida.

c. Document being filed on behalf of the Florida Retail Federation.

d. There are a total of 5 pages.

e. The document attached for electronic filing is The Florida Retail Federation's Prehearing Statement.

(see attached file: FRF.PrehearingStatement.Dec18.doc)

Thank you for your attention and assistance in this matter.

Rhonda Dulgar  
 Secretary to Schef Wright  
 Phone: 850-222-7206  
 FAX: 850-561-6834

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DOCUMENT NUMBER-DATE

11542 DEC 18 06

FPSC-COMMISSION CLERK

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

Petition for determination of need for )
expansion of Crystal River 3 nuclear )
power plant, for exemption from )
Bid Rule 25-22.082, F.A.C., and for )
cost recovery through fuel clause, by )
Progress Energy Florida )

DOCKET NO. 060642-EI
FILED: December 18, 2006

THE FLORIDA RETAIL FEDERATION'S PREHEARING STATEMENT

The Florida Retail Federation (FRF), by and through its undersigned attorneys and pursuant to the case schedule established for this docket, hereby files this its Prehearing Statement.

A. APPEARANCES:

ROBERT SCHEFFEL WRIGHT, Young van Assenderp, P.A., 225 South Adams Street, Suite 200, Tallahassee, Florida 32301, and

JOHN T. LAVIA, III, Young van Assenderp, P.A., 225 South Adams Street, Suite 200, Tallahassee, Florida 32301.

On Behalf of the Florida Retail Federation.

B. WITNESSES: None on need issues; none at this time on cost recovery issues, including issues relating to limitations on PEF's recovery of costs associated with the CR3 Uprate Project.

C. EXHIBITS: The Florida Retail Federation does not intend to present any exhibits on need issues through its own witnesses, but reserves its rights to introduce appropriate exhibits, including deposition transcripts, through the witnesses of other parties to this proceeding. The FRF also reserves its rights to introduce appropriate exhibits through its own or other parties' witnesses in the cost recovery phase of proceedings relating to the CR3 Uprate Project.

D. STATEMENT OF BASIC POSITION:

The FRF supports the construction of additional cost-effective generating capacity, including the CR3 Uprate Project, provided that appropriate protections are put

in place to ensure that PEF's customers receive the benefits projected by PEF, and further provided that PEF's customers are not forced to bear the risks of cost overruns. The FRF also supports exemption from the mandatory RFP provision of the Bid Rule because of the unique circumstances of this particular project, but the FRF opposes any decision or action by the Commission that would excuse PEF from the specific provisions of the Bid Rule, Rule 25-22.082(15), F.A.C., that limit the utility's recovery of costs to "those identified in the need determination proceeding . . . unless the utility can demonstrate that such costs were prudently incurred and due to extraordinary circumstance."

**E. STATEMENT OF ISSUES AND POSITIONS**

**ISSUE 1:** Should PEF's request for exemption from the requirements of Rule 25-22.082, Florida Administrative Code, be granted?

**FRF:** The FRF does not object to PEF being excused from conducting a Request for Proposals. However, the FRF objects to any decision or action by the Commission that would allow PEF to escape being limited to recovery of only the costs of the "CR3 Uprate Project" as represented in PEF's petition in this matter.

**ISSUE 2:** Is there a need for the proposed Crystal River Unit 3 Uprate, taking into account the need for electric system reliability and integrity, as the criterion is used in Section 403.519(3), Florida Statutes?

**FRF:** Yes.

**ISSUE 3:** Is there a need for the proposed Crystal River Unit 3 Uprate, taking into account the need for adequate electricity at a reasonable cost, as the criterion is used in Section 403.519(3), Florida Statutes?

**FRF:** No position at this time, pending further review of cost-effectiveness evidence.

**ISSUE 4:** Is there a need for the proposed Crystal River Unit 3 Uprate, taking into account the need for fuel diversity and supply reliability, as the criterion is used in Section 403.519(3), Florida Statutes?

**FRF:** Yes as to diversity, no position at this time as to supply reliability.

**ISSUE 5:** Are there any conservation measures taken by or reasonably available to PEF which might mitigate the need for the proposed Crystal River Unit 3 Uprate?

**FRF:** No.

**ISSUE 6:** Is the proposed Crystal River Unit 3 Uprate the most cost-effective alternative available, as this criterion is used in Section 403.519(3), Florida Statutes?

**FRF:** No position at this time, pending further review of cost-effectiveness.

**ISSUE 7:** Based on the resolution of the foregoing issues, should the Commission grant PEF's petition to determine the need for the proposed Crystal River Unit 3 Uprate?

**FRF:** No position at this time, pending further review of cost-effectiveness. Moreover, if granted by the Commission, the need determination for the CR3 Uprate Project should only be granted based upon the costs of the Project represented by PEF in its petition, and the Commission should include in its order determining need appropriate protections to ensure that PEF's customers receive the economic benefits projected by PEF and are not forced to bear the risks of cost overruns. The Commission should also expressly decline to excuse PEF from the specific provisions of the Bid Rule, Rule 25-22.082(15), F.A.C., that limit the utility's recovery of costs to "those identified in the need determination proceeding . . . unless the utility can demonstrate that such costs were prudently incurred and due to extraordinary circumstance."

**ISSUE 8:** Should this docket be closed?

**FRF:** Yes, after any order issued by the Commission regarding PEF's petition for determination of need and application for waiver of the Bid Rule becomes final, this docket should be closed. Further proceedings, if any, relating to cost recovery issues, should be conducted in a separate docket.

**F. STIPULATED ISSUES**

The Florida Retail Federation has not stipulated to any issues at this time.

**G. PENDING MOTIONS**

The Florida Retail Federation has no pending motions requiring the attention of the Prehearing Officer.

**H. PENDING REQUESTS OR CLAIMS FOR CONFIDENTIALITY**

The Florida Retail Federation has no pending claims or requests for confidential treatment of any information.

**I. NOTICE OF INTENT TO USE CONFIDENTIAL INFORMATION**

As of the filing of this Prehearing Statement, the FRF does not intend to use confidential documents at hearing.

**J. OBJECTIONS TO QUALIFICATIONS OF WITNESSES**

As of the time of filing its prehearing statement, the Florida Retail Federation does not expect to challenge the qualifications of any witness.

**K. REQUIREMENTS OF THE ORDER ESTABLISHING PROCEDURE**

The Florida Retail Federation is not aware of any applicable procedural requirements with which it cannot comply.

Respectfully submitted this 18th day of December, 2006.

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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's Petition to Intervene has been furnished by electronic mail and U.S. Mail the 18th day of December 2006, to the following:

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