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Sent: Thursday, April 10, 2008 5:51 PM
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Subject: Docket No. 080148 Southern Alliance for Clean Energy Petition to Intervene
Attachments: SACE-Petition_080148_PEF_Levy_Cty-FINAL 8-10-08.doc

a. Person responsible for filing:

E. Leon Jacobs, Jr.
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b. Docket No. 080148-EI Petition for determination of need for Levy Units 1 and 2 nuclear power plants, by Progress Energy, Florida, Inc.

c. Filed on behalf of the Southern Alliance for Clean Energy, Inc.

d. Total pages = 8

e. Petition to Intervene of the Southern Alliance for Clean Energy ; cover letter

DOCUMENT NUMBER-DATE

02810 APR 11 8

FPSC-COMMISSION CLERK

WILLIAMS, JACOBS, & ASSOCIATES

ATTORNEYS AT LAW
P.O. BOX 1101
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MOSES WILIAMS, ESQ.

E. LEON JACOBS, JR., ESQ.

April 10, 2008

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

RE: Docket No. 080148-EI
Petition for determination of need for Levy Units 1 and 2 nuclear power plants, by
Progress Energy, Florida, Inc.

Dear Ms. Cole:

On behalf of the Southern Alliance for Clean Energy, Inc., 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 Intervenor

Enclosures

DOCUMENT NUMBER-DATE

02810 APR 11 8

FPSC-COMMISSION CLERK

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re; Petition for determination of need for) DOCKET NO. 080148-EI
Levy Units 1 and 2 nuclear power plants, by) FILED: April 10, 2008
Progress Energy, Florida, Inc.)
)
)
_____)

**PETITION TO INTERVENE OF
SOUTHERN ALLIANCE FOR CLEAN ENERGY**

Petitioner, Southern Alliance for Clean Energy (“SACE”), pursuant to Rule 25-22.039, F.A.C., hereby files its petition to intervene in this docket and states:

1. The name and address of the agency affected by this petition is

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

2. The name and address of the Petitioner is:

Southern Alliance for Clean Energy
P.O. Box 1842
Knoxville, Tennessee 37901

3. The name and address of counsel for SACE authorized to

receive all notices, pleadings, and other communications in this docket are

E. Leon Jacobs, Jr.
Williams & Jacobs, LLC
1720 S. Gadsden St. MS 14
Suite 201
Tallahassee, Florida 32301
(850) 222-1246
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4. SACE is a non-profit corporation organized under the laws of Tennessee. SACE received notice of the Florida Public Service Commission's ("Commission") action through its Notice of Commencement of Proceedings for Determination of Need for a Proposed Electrical Power Plant issued by the Commission on March 12, 2008.

5. The mission of SACE is to promote responsible, economic energy choices that solve global warming problems and ensure clean, safe and healthy communities throughout the Southeast, including the State of Florida. SACE also has staff working on this mission in Tennessee, North Carolina, Georgia and South Carolina.

6. SACE has 1,781 members in the State of Florida, dedicated to the promotion of responsible energy choices. There are more than 400 members living in the service area that will be affected by this Commission's deliberations in this proceeding.

7. In furtherance of its mission, SACE is deeply involved in advocacy on adoption, implementation, and enforcement of meaningful requirements to evaluate the appropriateness of new electricity capacity. SACE experts have provided testimony in numerous forums in Florida, including before the Governor's Climate and Energy Action Team, the Florida State Legislature, the Department of Environmental Protection and this Commission, on the importance of thoroughly evaluating all cost-effective energy efficiency measures as a means of mitigating or displacing the need for new, non-renewable electricity generation. Indeed, intervention was granted to SACE by the Commission in *In re: Petition to determine need for Polk Unit 6 electrical power plant, by Tampa Electric Company*, Docket No. 070467 EI.

8. The Commission will decide in this docket whether it should approve Progress Energy of Florida's ("PEF's") petition for the determination of need for two new nuclear units at a new compound in Levy County, Florida. In making its determination to either grant or deny

the petition, the Commission shall consider whether the proposed unit additions are the most cost-effective means of meeting the demand projected by PEF, the status and the need for electric system reliability and integrity, the need for base-load generating capacity, the need for adequate electricity at a reasonable cost, and whether renewable energy sources and technologies, as well as conservation measures, are utilized to the extent reasonably available.

9. SACE has interests that are of the type 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. Department of Labor and Employment Security*, 412 So.2d 351,353-54 (Fla. 1982). As an advocate for the interests of its members who are PEF consumers, SACE is uniquely poised to assess and enunciate the significant risks to PEF ratepayers associated with the Commission's decision in this case, in particular, related to energy price volatility, and risks resulting from regulatory decisions made based on incorrect and/or inadequate assumptions and factual information related to the construction and operating costs of new nuclear power plants, with new design specifications. SACE is especially equipped to review PEF's assessment of reasonably attainable energy efficiency and conservation measures. Should the Commission embrace and approve the enormous risks associated with building a new nuclear plant of the size and scope requested, it would shift to PEF's ratepayers the obligation to subsidize and support on an asset of unprecedented magnitude, regardless of whether the plant ever begins operation. This decision, in the face of less expensive and readily available improvements in energy efficiency alternatives, is inconsistent with the best interests of ratepayers, and inconsistent with the Legislature's intent in the Florida Energy Efficiency and Conservation Act. Such a step further distances Florida from responsible energy portfolio best practices undertaken in other states in

response to the uncertainties of the energy marketplace. The best interests of SACE's members can be served by requiring PEF to meaningfully evaluate alternatives such as energy efficiency, renewable energy, demand-side management and conservation - strategies that are grossly underutilized in Florida's energy portfolio. The pervasive construction of nuclear energy presently anticipated in Florida dramatically reduces the prospect of active markets for demand-side resources.

10. The subject matter of this docket is within the SACE's scope of interest and activity, and the relief requested is the type of relief appropriate for SACE to receive on behalf of its members.

11. The rights and interests of SACE's members cannot adequately be represented by any other party in this docket, and intervention will not unduly delay or prejudice the rights of other parties.

STATEMENT OF DISPUTED ISSUES OF FACT

12. SACE opposes the relief requested by PEF because it has identified a number of issues which the Commission should address in this proceeding, for which SACE is of the view that evidence adduced in this proceeding will not favor granting said relief. These issues are:

- a. Whether PEF has demonstrated the need for new base load generation.
- b. Whether PEF has demonstrated that the construction of the two new nuclear units represents the most cost-effective alternative to meeting the need for new capacity, and whether the construction of two new nuclear units promotes electric system reliability and integrity. This determination should consider findings of the Federal Energy Regulatory Commission's investigation of Florida's energy grid.
- c. Whether PEF has demonstrated that it is utilizing reasonably available renewable energy sources and technologies.

- d. Whether PEF has demonstrated that it has reasonably projected the costs of construction of the proposed two new nuclear units, and whether the units will provide adequate electricity at a reasonable cost.
- e. Whether PEF has demonstrated that it has adequately valued and examined external costs associated with construction of the two units, and whether it has adequately valued and examined the prospect of energy efficiency and conservation measures to offset these costs were they to be implemented instead of the construction of the two units in the size and scope proposed by PEF.

STATEMENT OF ULTIMATE FACTS

13. PEF must meet the requirements of Rules 25-22.080 and 25-22.081, F.A.C. Before certifying the need for the PEF nuclear units as proposed, the Commission must ensure that the proposed unit is needed, and that it is the most appropriate alternative considering all available options. PEF has not reasonably projected the costs of construction of the proposed two new nuclear units.

14. The analysis provided by PEF does not fully evaluate cost-effective alternatives, such as energy efficiency and other conservation measures.

15. Each of these elements is necessary to protect the interests of affected consumers as required by Florida law.

16. The Commission must closely scrutinize the PEF proposal, including cost projections, evaluation of alternatives, evaluation of financial risks, and the conclusion that new capacity is needed in the area to be served by the proposed unit.

STATUTES AND RULES THAT REQUIRE THE RELIEF REQUESTED

21. The statutes and rules that require the relief requested by Intervenors include, but are not limited to, Chapter 120, sections 403.519 and 366.80 – 366.85 Florida Statutes, and Rules 25-22.039, 25-22.080, and 25-22.081, F.A.C.

22. Rule 25-22.039, Florida Administrative Code, provides 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.

23. The Florida Energy Efficiency and Conservation Act, sections 366.80 – 366.85 and 403.519, Florida Statutes, provides the Commission with jurisdiction over the need determinations for any provider of electric energy in the State and directs the Commission to ensure that new generating facilities are needed and that they reflect the most cost-effective and least risky alternative.

24. Section 403.519(4), Florida Statutes, provides the guidelines which the Commission must take into account in making its need determination. In making its determination, the Commission must consider the need for electric system reliability and integrity, the need for base-load generating capacity, the need for adequate electricity at a reasonable cost, and whether renewable energy sources and technologies, as well as conservation measures, are utilized to the extent reasonably available.

25. The Commission's determinations on any or all of these criteria will have a substantial impact on SACE's members, as set out above. The substantial interests of SACE's members are of a type or nature which this proceeding is designed to protect.

RELIEF SOUGHT

30. WHEREFORE, SACE respectfully requests that the Commission enter an order granting it leave to intervene in this docket and that the Commission take full consideration of the issues raised by SACE in this docket and further requests parties to provide the undersigned with all discovery filed in this docket.

RESPECTFULLY SUBMITTED this 10th day of April, 2008

/s/ E. Leon Jacobs, Jr.

E. Leon Jacobs, Jr.
Williams & Jacobs, LLC
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Suite 201
Tallahassee, Florida 32301
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true copy and correct copy of the foregoing was served on this 10th day of April via the internet and via US Mail on:

Jennifer Brubaker Florida Public Service Commission Gerald L. Gunter Building 2540 Shumard Oak Boulevard Tallahassee, Florida 32399-0850	J.R. Kelly / Stephen Burgess Office of Public Counsel c/o The Florida Legislature 111 W. Madison Street, Room 8 12 Tallahassee, FL 32399-1400
James W. Brew / F. Alvin Taylor Brickfield, Burchette, Ritts & Stone, P.C. 1025 Thomas Jefferson Street, NW, Eighth Floor, West Tower Washington, DC 20007-5201	Mr. Paul Lewis, Jr. Progress Energy Florida 106 East College Avenue, Suite 800 Tallahassee, FL 32301-7740
John T. Burnett / R. Alexander Glenn Progress Energy Service Company, LLC Post Office Box 14042 St. Petersburg, FL 33733-4042	

This 10th day of April, 2007.

/s/ E. Leon Jacobs, Jr.