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August 3, 2010

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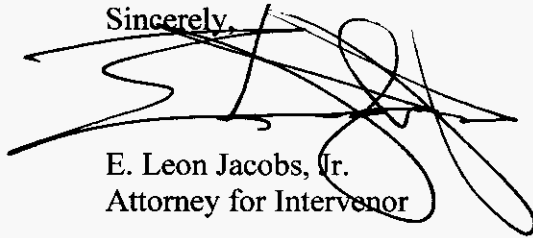
Ann Cole
Director, Office of the Commission Clerk
Florida Public Service Commission
2540 Shumard Oak Blvd
Tallahassee, Florida 32399-0850

RE: Docket No. 100009-EI In Re: Nuclear Cost Recovery

Dear Ms. Cole:

On behalf of the Southern Alliance for Clean Energy, I have enclosed for filing the original and seven (7) copies of the Prehearing Statement of the Southern Alliance for Clean Energy in the above-stated docket. I thank you for your attention to this matter.

Sincerely,



E. Leon Jacobs, Jr.
Attorney for Intervenor

Enclosures

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OPC _____
CLK _____

DOCUMENT NUMBER-DATE
16346 AUG-3 0
FPSC-COMMISSION CLERK

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Nuclear Plant Cost)
Recovery Clause)
)
)
_____)

DOCKET NO. 100009-EI
FILED: August 3, 2010

**THE SOUTHERN ALLIANCE FOR CLEAN ENERGY'S (SACE'S)
PREHEARING STATEMENT**

The Southern Alliance for Clean Energy ("SACE"), by and through its undersigned counsel, and pursuant to Order No. PSC-10-0115-PCO-EI, Order Establishing Procedure, hereby submits its Prehearing Statement in regards to the above-styled docket.

APPEARANCES

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WITNESSES

<u>Witness</u>	<u>Subject Matter</u>	<u>Issues</u>
Dr. Mark Cooper	The long-term feasibility of completion of FP&L's proposed TP 6 & 7 project and PEF's proposed LNP project; the prudence/reasonableness of continuing to pursue CO licenses from the NRC for these projects; the prudence/reasonableness of incurring additional costs and/or	6, 7, 14, 15, 19 20, 26, 27

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recovering those costs from ratepayers

Arnold Gundersen	The long-term feasibility of completion of FP&L's proposed TP 6 & 7 project and PEF's proposed LNP project; the prudence/reasonableness of continuing to pursue COL licenses from the NRC for these projects; the prudence/reasonableness of incurring additional costs and/or recovering those costs from ratepayers	6, 7, 14, 15, 19 20, 26, 27
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PREFILED EXHIBITS

<u>Exhibit</u>	<u>Sponsoring Witness</u>	<u>Description</u>
MNC-1	Cooper	Risk Factors Facing Construction of New Nuclear Reactors
MNC-2	Cooper	Unrealistic Assumptions Masking the Real Economics of Nuclear Reactors
MNC-3	Cooper	Increasing Risks Facing Nuclear Reactor Construction Projects
MNC-4	Cooper	Negative Events in the Nuclear Renaissance
MNC-5	Cooper	Exelon's View of the Deteriorating Nuclear As a Carbon Abatement Option
MNC-6	Cooper	Projected Natural Gas Prices Compared to EIA Projections
MNC-7	Cooper	The Decade of Volatile Natural Gas Prices May Have Been the Exception, Not the Rule
MNC-8	Cooper	Declining Peak Load Projections (Progress)
MNC-9	Cooper	Declining Peak Load and Capacity Needs (Progress)
MNC-10	Cooper	Declining Peak Load Projections (FPL)
MNC-11	Cooper	Declining Peak Load and Capacity Requirements (FPL)
MNC-12	Cooper	Projections of Projected Carbon Compliance Costs

MNC-13	Cooper	Projections of Overnight Construction Costs
MNC-14	Cooper	Declining Cost of Renewables
MNC-15	Cooper	Flexible Gas Additions Lower Revenue Requirements
MNC-16	Cooper	Cumulative Cost Difference: Flexibility v. Lumpy Treatment of Natural Gas Generation Additions
MNC-17	Cooper	Nuclear Construction Pressures Capital Requirements
MNC-18	Cooper	Overnight Costs as a Predictor of Net Savings: FPL
MNC-19	Cooper	The Risk of Nuclear Reactors in the Eyes of Industry Analysts
MNC-20	Cooper	The Resume of Dr. Mark Cooper
AG-1	Gundersen	Curriculum Vitae of Arnold Gundersen
AG-2	Gundersen	Sun-Sentinel FPL Olivera
AG-3	Gundersen	FPL Press Release 01-2010
AG-4	Gundersen	NRC to Westinghouse 10-09
AG-5	Gundersen	Westinghouse Schedule 6-21-2010
AG-6	Gundersen	2010-05-28 FPL –TPN- NRC
AG-7	Gundersen	Petition to ACRS re: AP-1000

STATEMENT OF BASIC POSITION

Rule 25-6.0423, F.A.C. explicitly and unequivocally requires FPL and PEF to submit for Commission review and approval a detailed analysis demonstrating the long-term feasibility of completing the project at issue, in this case, the Turkey Point 6 & 7 project and the Levy Units 1 & 2 project (“projects”). The testimony of SACE expert witnesses Mark Cooper, Ph.D., and Arnold Gundersen, as well as testimony by witnesses for FPL and PEF, establishes that both FPL

and PEF have failed to meet their burden to demonstrate the long-term feasibility of these projects. Therefore, burdening ratepayers with further costs for these projects would not be prudent or reasonable.

In the 2009 Nuclear Cost Recovery hearing (Docket 090009-EI), Dr. Cooper and Mr. Gundersen alerted the Commission to the great uncertainty and risk surrounding the feasibility of these projects. They warned the Commission that this uncertainty and risk would result in significant scheduling delays for the proposed reactors and significant increases in the total costs. PEF and FPL refused to acknowledge this uncertainty and its resulting adverse impacts in the hearing. However, the positions of the utilities in 2010 clearly demonstrate that Dr. Cooper and Mr. Gundersen were absolutely correct. As a result of the utilities' failure to acknowledge what was already apparent in 2009, PEF and FPL ratepayers are on the hook for hundreds of millions of dollars spent on reactors which likely will never be constructed.

Now, in 2010 both PEF and FPL have belatedly acknowledged the great uncertainty and risk surrounding the feasibility of completing these new nuclear reactors in the foreseeable future. As predicted by SACE, this belated admission on the part of PEF and FPL has resulted in significant scheduling delays for all four proposed reactors and corresponding massive cost increases. Therefore, PEF and FPL have both resorted to a strategy of "site banking" by which the utilities have delayed major capital expenditures for the near term and instead are only focused upon obtaining Combined Operating Licenses ("COL") from the Nuclear Regulatory Commission ("NRC"). However, given all of the uncertainty and risk surrounding new nuclear generation in this country and in the State of Florida, neither PEF nor FPL has demonstrated that completion of these reactors is feasible in the long-term, and furthermore neither utility has demonstrated any real commitment to actually construct these proposed reactors. Apparently,

both PEF and FPL have recognized, like most other utilities in the United States, that attempting to build new nuclear reactors given current economic conditions is simply not feasible.

Ultimately, it is the responsibility of the Commission to fix “fair, just and reasonable” rates for Florida ratepayers. Fla. Stat. § 366.06. In this docket, because FPL and PEF have failed to demonstrate the long-term feasibility of completing these projects, the utilities have as a result failed to demonstrate that the costs for which they seek recovery for 2010 and 2011 are reasonable and/or prudent. As a result, the Commission should deny both FPL and PEF’s requested cost recovery for 2010 and 2011, as is it would be imprudent and unreasonable for the Commission to allow the utilities to incur further expenses for these proposed reactors, or to recover those expenses from Florida ratepayers, until PEF and FPL themselves determine if completion of the reactors is feasible.

STATEMENT OF ISSUES AND POSITIONS

Legal and Policy Matters

ISSUE 1: Do FPL’s activities related to Turkey Point Units 6 & 7 qualify as “siting, design, licensing, and construction” of a nuclear power plant as contemplated by Section 366.93, F.S.?

SACE Position: No. FPL’s filings in this docket related to Turkey Point Units 6 & 7, as well as public statements made by FPL related to Turkey Point Units 6 & 7, clearly indicate that FPL is only engaged in an attempt at “licensing” a nuclear power plant, and not the “construction” of a nuclear power plant. No final decision to proceed with construction of the Turkey Point Units 6 & 7 has been made.

ISSUE 2: Do PEF’s activities related to Levy Units 1 & 2 qualify as “siting, design, licensing, and construction” of a nuclear power plant as contemplated by Section 366.93, F.S.?

SACE Position: No. PEF’s filings in this docket related to Levy Units 1 & 2 clearly indicate that PEF is only engaged in an attempt at “licensing” a nuclear power plant, and not the “construction” of a nuclear power plant. No final decision to proceed with construction of the Levy Units 1 & 2 has been made.

ISSUE 3: Does the Commission have the authority to require a “risk sharing” mechanism that would provide an incentive for a utility to complete a project within an appropriate, established cost threshold? If so, what action, if any, should the Commission take?

SACE Position: The Commission does have such authority in order fulfill its obligation to fix “fair, just and reasonable” rates for Florida ratepayers. Fla. Stat. § 366.06.

The Commission should endeavor to establish a risk-sharing mechanism by which a utility would be responsible for the costs of a project which exceed a cost threshold established by the Commission for the project.

Company Specific Issues

Progress Energy Florida, Inc

ISSUE 4: Should the Commission find that for the year 2009, PEF’s accounting and costs oversight controls were reasonable and prudent for the Levy Units 1 & 2 project and the Crystal River Unit 3 Uprate project?

SACE Position: No position at this time.

ISSUE 5: Should the Commission find that for the year 2009, PEF’s project management, contracting, and oversight controls were reasonable and prudent for the Levy Units 1 & 2 project and the Crystal River Unit 3 Uprate project?

SACE Position: No position at this time.

ISSUE 6: Should the Commission approve what PEF has submitted as its annual detailed analysis of the long-term feasibility of completing the Levy Units 1 & 2 project, as provided for in Rule 25-6.0423, F.A.C? If not, what action, if any, should the Commission take?

SACE Position: No. PEF has failed to complete a realistic feasibility assessment that properly takes into account important changes in key variables which have adversely affected the long-term feasibility of nuclear reactors, including but not limited to: declining natural gas costs; declining estimates of the cost of carbon; declining demand; ongoing scheduling delays; increased total project costs; and the true impacts of efficiency and renewables.

Furthermore, PEF utilizes an approach to modeling need for generation which systematically biases the results in favor of nuclear construction.

As a result, the Commission should deny cost recovery for PEF's 2010 and 2011 costs.

ISSUE 7: Is PEF's decision to continue pursuing a Combined Operating License from the Nuclear Regulatory Commission for Levy Units 1 & 2 reasonable? If not, what action, if any, should the Commission take?

SACE Position: **No. It is unreasonable for PEF to continue to incur additional costs on the licensing of the proposed Levy Units 1 & 2, and pass these costs on to ratepayers, with no real demonstrated commitment to actually constructing the proposed reactors and with no demonstration of the long-term feasibility of completing the reactors.**

As a result, the Commission should deny cost recovery for PEF's 2010 and 2011 costs as these costs are not being reasonably incurred.

ISSUE 8: Should the Commission approve what PEF has submitted as its annual detailed analysis of the long-term feasibility of completing the Crystal River Unit 3 Uprate project, as provided for in Rule 25-6.0423, F.A.C? If not, what action, if any, should the Commission take?

SACE Position: **No position at this time.**

ISSUE 9: What system and jurisdictional amounts should the Commission approve as PEF's final 2009 prudently incurred costs and final true-up amounts for the Crystal River Unit 3 Uprate project?

SACE Position: **No position at this time.**

ISSUE 10: What system and jurisdictional amounts should the Commission approve as PEF's reasonably estimated 2010 costs and estimated true-up amounts for the Crystal River Unit 3 Uprate project?

SACE Position: **No position at this time.**

ISSUE 11: What system and jurisdictional amounts should the Commission approve as PEF's reasonably projected 2011 costs for the Crystal River Unit 3 Uprate project?

SACE Position: No position at this time.

ISSUE 12: Are all the costs (included transmission line costs) for which PEF is seeking recovery eligible for cost recovery pursuant to Section 366.93, Florida Statutes? *(OPC to finalize, said to be Levy related - specifically the Central Florida Substation)*

SACE Position: No position at this time. SACE explicitly reserves the right to amend its position once this issue is finalized.

ISSUE 13: What system and jurisdictional amounts should the Commission approve as PEF's final 2009 prudently incurred costs and final true-up amounts for the Levy Units 1 & 2 project?

SACE Position: No position at this time.

ISSUE 14: What system and jurisdictional amounts should the Commission approve as reasonably estimated 2010 costs and estimated true-up amounts for PEF's Levy Units 1 & 2 project?

SACE Position: None. PEF has not demonstrated that completion of the Levy Units 1 & 2 is feasible in the long-term as required by Rule 25-6.0423(5)(c)5, F.A.C., therefore no such costs could be reasonably estimated and/or incurred.

ISSUE 15: What system and jurisdictional amounts should the Commission approve as reasonably projected 2011 costs for PEF's Levy Units 1 & 2 project?

SACE Position: None. PEF has not demonstrated that completion of the Levy Units 1 & 2 is feasible in the long-term as required by Rule 25-6.0423(5)(c)5, F.A.C., therefore no such costs could be reasonably projected and/or incurred.

ISSUE 16: What is the total jurisdictional amount to be included in establishing PEF's 2011 Capacity Cost Recovery Clause factor?

SACE Position: No position at this time.

Florida Power & Light Company's Specific Issues

ISSUE 17: Should the Commission find that for the year 2009, FPL's accounting and costs oversight controls were reasonable and prudent for the Turkey Point Units 6 & 7 project and the Extended Power Uprate project?

SACE Position: No position at this time.

ISSUE 18: Should the Commission find that for the year 2009, FPL's project management, contracting, and oversight controls were reasonable and prudent for the Turkey Point Units 6 & 7 project and the Extended Power Uprate project?

SACE Position: No position at this time.

ISSUE 19: Should the Commission approve what FPL has submitted as its annual detailed analysis of the long-term feasibility of completing the Turkey Point 6 & 7 project, as provided for in Rule 25-6.0423, F.A.C? If not, what action, if any, should the Commission take?

SACE Position: No. FPL has failed to complete a realistic feasibility assessment that properly takes into account important changes in key variables which have adversely affected the long-term feasibility of nuclear reactors, including but not limited to: declining natural gas costs; declining estimates of the cost of carbon; declining demand; ongoing scheduling delays; increased total project costs; and the true impact of efficiency and renewables. Furthermore, FPL utilizes an approach to modeling need for generation which systematically biases the results in favor of nuclear construction.

As a result, the Commission should deny cost recovery for PEF's 2010 and 2011 costs.

ISSUE 20: Is FPL's decision to continue pursuing a Combined Operating License from the Nuclear Regulatory Commission for Turkey Point Units 6 & 7 reasonable? If not, what action, if any, should the Commission take?

SACE Position: No. It is unreasonable for FPL to continue to incur additional costs on the licensing of the proposed Turkey Point Units 6 & 7, and pass these costs on to its ratepayers, with no real demonstrated commitment to actually constructing the reactors and with no demonstration of the long-term feasibility of completing the reactors.

As a result, the Commission should deny FPL's requested 2010 and 2011 cost recovery as these costs are not being reasonably incurred.

ISSUE 21: Should the Commission approve what FPL has submitted as its annual detailed analysis of the long-term feasibility of completing the Extended Power Uprate project, as provided for in Rule 25-6.0423, F.A.C? If not, what action, if any, should the Commission take?

SACE Position: No position at this time.

ISSUE 22: What system and jurisdictional amounts should the Commission approve as FPL's final 2009 prudently incurred costs and final true-up amounts for the Extended Power Uprate project?

SACE Position: No position at this time.

ISSUE 23: What system and jurisdictional amounts should the Commission approve as FPL's reasonable actual/estimated 2010 costs and estimated true-up amounts for the Extended Power Uprate project?

SACE Position: No position at this time.

ISSUE 24: What system and jurisdictional amounts should the Commission approve as FPL's reasonably projected 2011 costs for the Extended Power Uprate project?

SACE Position: No position at this time.

ISSUE 25: What system and jurisdictional amounts should the Commission approve as FPL's final 2009 prudently incurred costs and final true-up amounts for the Turkey Point Units 6 & 7 project?

SACE Position: No position at this time.

ISSUE 26: What system and jurisdictional amounts should the Commission approve as reasonably estimated 2010 costs and estimated true-up amounts for FPL's Turkey Point Units 6 & 7 project?

SACE Position: None. FPL has not demonstrated that completion of the Turkey Point 6 & 7 project is feasible in the long-term as required by Rule 25-6.0423(5)(c)5, F.A.C., therefore no such costs could be reasonably estimated and/or incurred.

ISSUE 27: What system and jurisdictional amounts should the Commission approve as reasonably projected 2011 costs for FPL's Turkey Point Units 6 & 7 project?

SACE Position: None. FPL has not demonstrated that completion of the Turkey Point 6 & 7 project is feasible in the long-term as required by Rule 25-6.0423(5)(c)5, F.A.C., therefore no such costs could be reasonably projected and/or incurred.

ISSUE 28: What is the total jurisdictional amount to be included in establishing FPL's 2011 Capacity Cost Recovery Clause factor?

SACE Position: No position at this time.

STIPULATED ISSUES

None.

PENDING MOTIONS/OTHER MATTERS

None at the time of filing of this Prehearing Statement.

PENDING REQUESTS OR CLAIMS FOR CONFIDENTIALITY

SACE has no pending requests or claims for confidentiality.

OBJECTIONS TO WITNESS' QUALIFICATIONS AS AN EXPERT

None at this time.

COMPLIANCE WITH ORDER ESTABLISHING PROCEDURE

SACE has complied with all applicable requirements of the Order Establishing Procedure in this docket.

Dated: August 3, 2010

Respectfully Submitted,

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Counsel for SACE

CERTIFICATE OF SERVICE
Docket No. 100009

I HEREBY CERTIFY that a true and correct copy of the foregoing **PREHEARING STATEMENT** has been furnished by electronic mail (e-mail) and/or U.S. Mail this the 3rd day of August, 2010.

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