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January 9, 2012

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COMMISSION
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Martha Carter Brown, Esquire
Office of General Counsel
Florida Public Service Commission
2540 Shumard Oak Blvd.
Tallahassee, FL 32399-0850

Re: *In re Environmental Cost Recovery Clause*, Docket No. 120007-EI

Dear Martha:

On behalf of Progress Energy Florida, Inc. (PEF), I am writing to advise the Commission of a development related to PEF's recovery of nitrogen oxide (NOx) emission allowance costs through the Environmental Cost Recovery Clause (ECRC).

As you know, in Order No. PSC-11-0553-FOF-EI issued in Docket No. 110007-EI on December 7, 2011, the Commission addressed the impact of the U.S. Environmental Protection Agency's new Cross-State Air Pollution Rule (CSAPR) on PEF's recovery of NOx emission allowance costs. Specifically, because CSAPR would no longer allow PEF to use NOx allowances previously obtained under the Clean Air Interstate Rule (CAIR) for compliance effective January 1, 2012, the Commission established a regulatory asset to allow PEF to recover the costs of its remaining NOx allowance inventory over a three year amortization period. On December 30, 2011, however, the U.S. Circuit Court of Appeals for the District of Columbia stayed the effect of CSAPR pending resolution of several petitions for review of the rule. The Court's order, which is attached to this letter, further specified that CAIR will remain in effect pending resolution of the petitions for review.

In its recent Order No. PSC-11-0553-FOF-EI, the Commission addressed the potential impact of litigation over CSAPR on PEF's recovery of NOx emission allowance costs as follows:

Recognizing that historically many of the EPA's final rules were subsequently challenged in court after their publication, the CSAPR rule too may be litigated and ultimately revised in the future. If there are changes to the CSAPR that result in the \$22.5 million NOx allowances regaining value, PEF should refund the amount it recovered associated with these NOx allowances through the ECRC, and expense the amount into the ECRC based on actual usage consistent with current practice.

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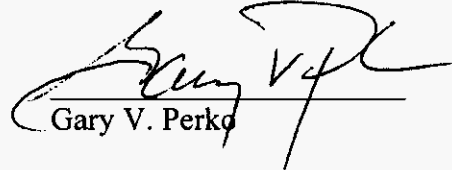
Order No. PSC-11-0553-FOF-EI, at p. 13. As a result of the stay of CSAPR and reinstatement of CAIR, PEF will comply with the above-quoted directive of the Commission by continuing to expense NOx allowance costs incurred to comply with CAIR based on actual usage consistent with current practice. Any over-recovery of NOx allowance costs resulting from the Commission's establishment of the regulatory asset in Order No. PSC-11-0553-FOF-EI will be refunded through the normal true-up process in the annual ECRC proceedings.

We will keep the Commission apprised of any further developments related to CSAPR during the course of this year's ECRC proceedings. In the meantime, please do not hesitate to contact me should you have any questions or comments.

Very truly yours,

HOPPING GREEN & SAMS, P.A.

By:


Gary V. Perko

Attorneys for PROGRESS ENERGY FLORIDA, INC.

Enclosure

cc: All counsel of record

Hopping Green & Sams

Attorneys and Counselors