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Subject: FPSC Docket 120001-EI - PCS Phosphate's Post-Hearing Brief

Attachments: PCS Fuel Brief 2012_FINAL.pdf

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- b. Docket No. 120001-EI, In Re: Fuel and Purchased Power Cost Recovery Clause and Generating Performance Incentive Factor
- c. Filed on behalf of White Springs Agricultural Chemicals, Inc. d/b/a PCS Phosphate – White Springs
- d. Total Pages = 7
- e. PCS Phosphate's Post-Hearing Brief and Statement of Issues and Positions

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**BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION**

**In Re: Fuel and Purchased Power)
Cost Recovery Clause with Generating)
Performance Incentive Factor)**
_____)

**Docket No. 120001-EI
Filed: November 13, 2012**

**POST-HEARING BRIEF AND STATEMENT OF ISSUES AND POSITIONS
OF WHITE SPRINGS AGRICULTURAL CHEMICALS, INC.
D/B/A PCS PHOSPHATE – WHITE SPRINGS**

Pursuant to the Florida Public Service Commission’s February 10, 2012 *Order Establishing Procedure*, Order No. PSC-12-0061-PCO-EI, and as ordered at the Commission’s Hearing in this proceeding, White Springs Agricultural Chemicals, Inc. d/b/a PCS Phosphate – White Springs (“PCS Phosphate”) files this Post-Hearing Brief and Statement of Issues and Positions with respect to Progress Energy Florida (“Progress” or “PEF”).

As explained below, PCS Phosphate agrees that the full amount of the remaining balance of Progress’ claim for insurance coverage of the replacement fuel costs associated with the outage of the Crystal River Unit 3 (“CR3”) should be reflected in the 2013 fuel factor as PEF has proposed, but no further inference should be drawn with respect to such insurance coverage. Also, as PCS Phosphate explained in the Nuclear Cost Recovery Clause proceeding, Docket No. 120009-EI, Progress should not be allowed to recover 2011 CR3 EPU expenditures in the 2013 capacity clause because Progress has failed to establish that those project costs were prudently incurred. Given the continuing uncertainty concerning whether PEF will attempt to repair CR3, a decision that is exclusively in the control of PEF management, the Commission appropriately deferred consideration of 2012 and estimated 2012 CR3 uprate costs. Given that same uncertainty, absent a PEF request to similarly defer consideration of 2011 uprate costs, those costs must be disallowed.

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STATEMENT OF POSITION AND DISCUSSION

ISSUE 1D: What amount, if any, should PEF include in its 2013 projections to account for potential insurance recoveries for Crystal River Unit 3 from Nuclear Electric Insurance Limited?

POSITION: ** The amount of fuel recoveries in 2013 should reflect all reimbursements authorized under the NEIL policy that has been funded by ratepayers. Upon a final disposition of PEF's insurance claims concerning the current CR3 extended outage, the Commission should require PEF to make a filing in an appropriate docket justifying the bases for its claims and ultimate cost reimbursement by NEIL.**

The extent of insurance coverage related to the extended outage of Progress' Crystal River Unit 3 due to multiple delamination events of the containment structure has become a pivotal issue affecting both current costs to ratepayers and PEF's ultimate decision to proceed with the project repairs. It has been established that PEF has sought coverage reimbursement for both replacement power and repair costs under its policy with Nuclear Electric Insurance Limited ("NEIL") that treats the prolonged outage as a single covered insurable event. PEF acknowledges that NEIL initially accepted PEF's claimed coverage as valid and began making payments under the policy. Tr. 110. NEIL made replacement fuel reimbursement payments totaling \$162 million through May 2011 of the claim maximum coverage of \$490 million, and also made payments totaling \$136 million toward repairs costs. Tr. 79. Following disclosure of the March 2011 delamination event and the need for a demonstrably more extensive scope of repair, NEIL suspended further payments under the claim. Since that time, PEF and NEIL have been engaged in discussions to resolve all CR3 containment insurance claims that appear headed toward mediation and possibly binding arbitration. Those issues are the subject of the Commission's on-going inquiry in Docket No. 100437-EI.

For the purposes of this fuel cost recovery proceeding, there are two CR3 NEIL related questions. First, in its filing Progress has imputed \$327.6 million in expected NEIL replacement fuel costs coverage for the period August 2011 through August 2012. This represents the remaining balance of replacement fuel coverage under "single event" coverage. Tr. 108. PCS Phosphate agrees that this amount should be imputed to fuel cost recovery in the 2013 fuel factor as PEF proposes. It is evident that NEIL would have already paid these amounts had the March delamination event not occurred. It also is undisputed that PEF ratepayers have always been billed for the cost of NEIL premiums in PEF's base rates cost of service. Tr. 107. Hence the very purpose of NEIL replacement fuel cost coverage is to reimburse consumers for the outage related costs of a covered event under the policy. PEF customers should receive the full benefit of replacement fuel coverage under the policy that they have funded for many years. Imputing the remaining extended replacement fuel cost reimbursement to the 2013 factor reduces the delay in receipt of the NEIL amounts occasioned by the controversy created by the March 23 delamination.

As there was no dispute that the September 2009 delamination was a covered event under the NEIL policy, ratepayers should receive the full benefit of that coverage. The reimbursement imputation that PEF proposes properly serves that purpose. While PEF may have no control over NEIL's process or the timing of the eventual disposition of the CR3 insurance claims, the utility clearly will have some explaining to do if NEIL eventually disallows policy coverage for a claim that the insurer initially accepted and on which it actually made payments. PCS recommends that the Commission require PEF to make a filing in an appropriate docket justifying the bases for its claims and ultimate cost reimbursement or disallowed costs.

ISSUE 27: What are the appropriate capacity cost recovery true-up amounts for the period January 2011 through December 2011?

ISSUE 29: What are the appropriate total capacity cost recovery true-up amounts to be collected/refunded during the period January 2013 through December 2013?

ISSUE 33: What are the appropriate capacity cost recovery factors for the period January 2013 through December 2013?

POSITION: **With respect to PEF, all capacity cost recovery amounts and the resultant capacity factors for the period January 2013 through December 2013 must reflect the removal all of 2011 expenditures, including carrying costs, for the CR3 EPU project.**

Progress's requested capacity cost recovery factor seeks that full recovery of its 2011 expenditures for the engineering, procurement and construction of the CR3 EPU project as presented in the Nuclear Cost Recovery Clause proceeding, Docket No. 120009-EI. On September 5, 2012, the Commission granted PEF's motion to defer consideration of recovery of its 2012 actual/estimated and 2013 estimated CR3 uprate costs. The Commission previously had taken similar action in the 2011 NCRC docket with respect to the power uprate's 2011 costs. In this docket, however, Progress seeks recovery of approximately \$66 million (including carrying costs) that it claims were prudently expended in 2011 towards the CR3 EPU. The capacity cost recovery factor to be approved in this docket is subject to the final outcome of Docket No. 120009-EI. However, because Progress failed to establish the feasibility of the EPU project and thereby failing to carry its burden of proof to demonstrate the prudence of the 2011 expenditures, PCS Phosphate maintains that the capacity factors sought by Progress in this docket must be reduced to reflect the disallowance of Progress' 2011 expenditures for the CR3 EPU project.

CONCLUSION

For the reasons stated above, PCS Phosphate urges the Commission to adopt the above described recommendations relating to PEF fuel and capacity cost recovery factors in this docket .

Respectfully submitted the 13th day of November, 2012.

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of PCS Phosphate's Post-Hearing Brief and Statement of Issues and Positions has been served by electronic and/or U. S. mail on this 13th day of November, 2012:

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