

REQUEST TO ESTABLISH DOCKET

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| Date: | 4/29/2013 | Docket No.: | 130091-E1 |
| 1. From Division / Staff: | Gcl/Murphy | | |
| 2. OPR: | AFD Lester <i>ADP</i> | | |
| 3. OCR: | GCL Murphy <i>Can</i> | | |
| 4. Suggested Docket Title: | Petition of Progress Energy Florida <i>percy. P. Inc.</i> to approve establishment of a regulatory asset and associated three-year amortization schedule for costs associated with PEF's previously approved permanent thermal discharge compliance project. | | |
| 5. Program/Module/Submodule Assignment: | A3d | | |
| 6. Suggested Docket Mail List. | | | |
| a. Provide NAMES/ACRONYMS, if registered company. | | <input checked="" type="checkbox"/> Provided as an Attachment | |
| Company Code, if applicable: | Parties (include address, if different from MCD): | Representatives (name and address): | |
| EI 801 | Progress Energy Florida, Inc. | Same as Docket No. 130007-EI | |
| | | | |
| | | | |
| b. Provide COMPLETE NAME AND ADDRESS for all others. (match representatives to companies) | | | |
| Company Code, if applicable: | Interested persons, if any, (include address, if different from MCD): | Representatives (name and address): | |
| | See Comment Below | See Comment Below | |
| | | | |
| | | | |
| 7. Check one: | <input checked="" type="checkbox"/> Supporting Documentation Attached | | <input type="checkbox"/> To be provided with Recommendation |
| Comments: Petition was originally filed in Docket No. 130007-EI; all parties and interested parties in that Docket should be listed as interested parties in the new docket with the same contact information. | | | |

DOCUMENT NUMBER 02222
 02222 APR 29 2013
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Hopping Green & Sams

Attorneys and Counselors
April 1, 2013

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BY HAND-DELIVERY

Ann Cole
Commission Clerk
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399

130091-EI

Re: Docket No. 130091-EI

Dear Ms. Cole:

On behalf of Progress Energy Florida, Inc. (PEF), I enclose for filing in the above docket the original and fifteen (15) copies of the following:

- PEF's Petition for Approval of Environmental Cost Recovery Final True-Up for the Period January 2012 to December 2012;
- Pre-filed Direct Testimony of Thomas G. Foster and Exhibit Nos. __ (TGF-1) and (TGF-2);
- Pre-filed Direct Testimony of Patricia Q. West and Exhibit No. __ (PQW-1);
- Pre-filed Direct Testimony of Benjamin Borsch;
- Pre-filed Direct Testimony of Kevin Swartz;
- Pre-filed Direct Testimony of George Hixon; and
- Pre-filed Direct Testimony of Corey Zeigler.

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DN 01583-13
DN 01584-13
DN 01585-13
DN 01586-13
DN 01587-13

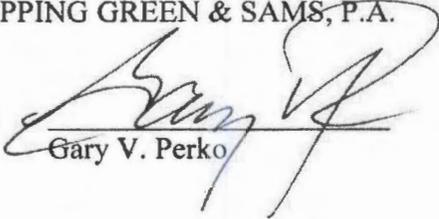
Copies of the enclosed documents are being furnished to the parties on the attached certificate of service by U.S. Mail.

Please acknowledge receipt and filing of the above by stamping the duplicate copy of this letter and returning it to me. If you have any questions regarding this filing, please call me at 222-7500.

COM _____
 AFD _____
 APA _____
 ECO _____
 ENG 11 (Petition)
 GCL _____
 IDM _____
 TEL _____
 CLK _____ Enclosures

Very truly yours,

HOPPING GREEN & SAMS, P.A.

By: 
Gary V. Perko

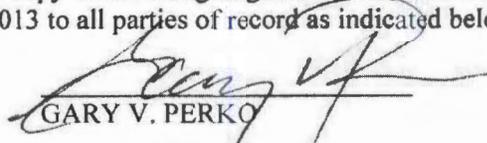
cc: Certificate of Service

DOCUMENT NUMBER - DATE

01582 APR -1 13

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished via hand-delivery (*) or regular U.S. Mail this 1st day of April, 2013 to all parties of record as indicated below.


GARY V. PERKO

| | |
|---|---|
| <p>Charles Murphy, Esquire* Office of General Counsel Florida Public Service Commission 2540 Shumard Oak Boulevard Tallahassee, Florida 32399-0850 cmurphy@psc.state.fl.us</p> <p>James D. Beasley, Esquire Jeffrey Wahlen, Esquire Ausley & McMullen Law Firm Post Office Box 391 Tallahassee, Florida 32302 jbeasley@ausley.com</p> <p>John T. Butler, Esquire Florida Power & Light Co. 700 Universe Boulevard Juno Beach, Florida 33408 John.butler@fpl.com</p> <p>Ken Hoffman, Esquire Florida Power & Light 215 S. Monroe Street, Suite 810 Tallahassee, Florida 32301-1859 Wade.litchfield@fpl.com</p> <p>Jeffrey A. Stone, Esquire Russell A. Badders, Esquire Steven R. Griffin, Esquire Beggs & Lane Law Firm Post Office Box 12950 Pensacola, Florida 32591 jas@beggslane.com rab@beggslane.com; srg@beggslane.com</p> <p>Ms. Paula K. Brown Tampa Electric Company Post Office Box 111 Tampa, Florida 33601 regdept@tecoenergy.com</p> <p>Capt Samuel Miller c/o AFLSA/JACL-ULT 139 Barnes Drive, Suite 1 Tyndall AFB, Florida 32403-5319 samuel.miller@tyndall.af.mil</p> | <p>J.R. Kelly / Charles Rehwinkel Office of Public Counsel c/o The Florida Legislature 111 West Madison Street, #812 Tallahassee, Florida 32399 Kelly.jr@leg.state.fl.us Rehwinkel.charles@leg.state.fl.us</p> <p>Mr. James W. Brew, Esquire c/o Brickfield Law Firm 8th Floor, West Tower 1025 Thomas Jefferson St., NW Washington, DC 20007 jbrew@bbrslaw.com</p> <p>Jon C. Moyle, Jr., Esquire Moyle Law Firm 118 North Gadsden Street Tallahassee, Florida 32301 vkaufman@moylelaw.com jmoyle@moylelaw.com</p> <p>Ms. Susan D. Ritenour Gulf Power Company One Energy Place Pensacola, Florida 32520-0780 sdriteno@southernco.com</p> <p>White Springs Agricultural Chemicals Post Office Box 300 White Springs, Florida 32096 Rmiller@pcsphosphate.com</p> <p>John Burnett/Dianne Triplett Progress Energy Florida, Inc. Post Office Box 14042 St. Petersburg, Florida 33733 John.burnett@pgnmail.com Dianne.triplett@pgnmail.com</p> <p>Paul Lewis, Jr. Progress Energy Florida, Inc. 106 E. College Ave., Suite 800 Tallahassee, Florida 32301 Paul.lewisjr@pgnmail.com</p> |
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Hopping Green & Sams

Attorneys and Counselors

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Environmental Cost Recovery Clause

Docket No. 130007-EI

Filed: April 1, 2013

PROGRESS ENERGY FLORIDA'S PETITION FOR APPROVAL OF ENVIRONMENTAL COST RECOVERY FINAL 2012 TRUE-UP, FOR APPROVAL TO ESTABLISH A REGULATORY ASSET AND ASSOCIATED AMORTIZATION SCHEDULE, AND TO MODIFY THE SCOPE OF AN EXISTING ENVIRONMENTAL PROGRAM

Progress Energy Florida, Inc. ("PEF" or "the Company"), hereby petitions for approval of PEF's final end-of-the period Environmental Cost Recovery Clause (ECRC) True-Up amounts for the period January 2012 through December 2012, to establish a regulatory asset and associated amortization schedule for costs associated with PEF's previously approved permanent thermal discharge compliance project, and to modify the scope of its existing Integrated Clean Air Compliance environmental program . In support of this Petition, PEF states:

I. Final True-up for the Period January 2012 through December 2012.

1. The actual end-of-period ECRC true-up over-recovery amount of \$12,631,810 for the period January 2012 through December 2012 was calculated in accordance with the methodology set forth in Form 42-2A of Exhibit No. __ (TGF-1) accompanying the testimony of PEF witness Thomas G. Foster, which is being filed together with this Petition and incorporated herein. Additional cost information for specific ECRC programs for the period January through December 2012 are presented in the direct testimony of Patricia Q. West, Corey Zeigler, George Hixon, and Jeff Swartz filed with this Petition and incorporated herein.

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2. In Order No. PSC-12-0613-FOF-EI, the Commission approved an over-recovery of \$14,632,974 as the estimated/actual ECRC true-up for the period January 2012 through December 2012.

3. As reflected on Form 42-1A of Exhibit No. __ (TGF-1) to Mr. Foster's testimony, the adjusted net true-up for the period January 2012 through December 2012 is an under-recovery of \$2,001,164, which is the difference of the actual true-up over-recovery of \$12,631,810 and the estimated/actual true-up over-recovery of \$14,632,974.

II. Establishment of Regulatory Asset and Associated Amortization Schedule.

4. In Order PSC-08-0775-FOF-EI dated November 24, 2008, the Commission approved ECRC recovery of capital and operating costs that PEF incurs to implement a permanent solution to ensure compliance with thermal discharge limits at PEF's Crystal River Plant. A permanent compliance solution was necessary to mitigate thermal impacts from the operation of Crystal River Units 1 and 2 and to provide additional cooling necessary to accommodate the Crystal River Unit 3 Extended Power Uprate (EPU) project. Accordingly, costs associated with each of these factors are accounted for separately. Environmental-driven costs are accounted for in the ECRC, and EPU-driven costs are accounted for in the Nuclear Cost Recovery Clause (NCRC) based on ratio of heat removal attributable to CR1&2 and the CR3 EPU (i.e., 64% for CR1&2 (ECRC) and 36% for CR3 EPU (NCRC)).

5. On February 5, 2013, PEF announced that it will retire CR3. Due to the reduction in thermal loading resulting from the retirement of CR3, construction of the permanent thermal discharge compliance project is no longer necessary. For that reason, PEF proposes to treat costs incurred for the project including any exit or wind-down costs, as a regulatory asset as of January 1, 2013 and amortize it over three years until fully recovered by December 31, 2015,

with a return on the unamortized balance. As of December 31, 2012 the balance of unrecovered investment in this project is approximately \$18.1 million (system). As explained in the testimony of Thomas G. Foster submitted simultaneously with this Petition, this is consistent with Commission precedent in Order No. PSC-11-0553-FOF-EI dated December 7, 2011, where the Commission authorized PEF to establish a regulatory asset and associated three-year amortization schedule to allow recovery of the costs of nitrogen oxide (NO_x) emission allowances that were thought to be unusable as a result of regulatory developments.

6. PEF proposes to address any over/under-recovery associated with these costs through the normal true-up process in the annual ECRC proceedings. Accordingly, establishment of the proposed regulatory asset and associated amortization schedule would not affect PEF's 2013 ECRC factors.

III. Modification of Scope of Existing Integrated Clean Air Compliance Program.

7. In the 2007 ECRC Docket, the Commission approved PEF's Integrated Clean Air Compliance Plan (Plan D) as a reasonable and prudent means to comply with the requirements of the Clean Air Interstate Rule (CAIR), the Clean Air Mercury Rule (CAMR), the Clean Air Visibility Rule (CAVR), and related regulatory requirements. See Order No. PSC-07-0922-FOF-EI, at 8 (Nov. 16, 2007). In each subsequent ECRC docket, the Commission approved PEF's annual review of the Integrated Clean Air Compliance Plan, concluding that the Plan remains the most cost-effective alternative for achieving and maintaining compliance with the applicable air quality regulatory requirements. See Order No. PSC-12-0613-FOF-EI, at 16-17 (Nov. 16, 2012); Order No. PSC-11-0553-FOF-EI, at 13-14 (Dec. 7, 2011); Order No. PSC-10-0683-FOF-EI, at 6-7 (Nov. 15, 2010); Order No. PSC-09-0759-FOF-EI, at 18 (Nov. 18, 2009); Order No. 08-0775-FOF-EI, at 11 (Nov. 24, 2008).

8. As the Commission is aware, in February 2008, the U.S Circuit Court of Appeals for the District of Columbia vacated the CAMR regulation and rejected the U.S. Environmental Protection Agency's (EPA's) delisting of coal-fired electric generating units (EGUs) from the list of emission sources that are subject to Section 112 of the Clean Air Act. See Order No. PSC-09-0759-FOF-EI, at pp. 15, 18 (Nov. 18, 2009). As a result, in lieu of CAMR, the EPA was required to adopt new emissions standards for control of hazardous air pollutant emissions from coal-fired EGUs. Id. The EPA issued its final rule on December 21, 2011, with publication in the *Federal Register* following on February 16, 2012. See 77 Fed. Reg. 9304 (Feb. 26, 2012). The final rule establishes new Mercury and Air Toxics Standards ("MATS") for emissions of various metals and acid gases from both coal and oil-fired EGUs, including PEF's Crystal River Plant Units 1 and 2.

9. As explained in detail in PEF's annual review of its Integrated Clean Air Compliance Plan and associated testimony submitted as Exhibit No. __ (PQW-1) with this petition, PEF has determined that retirement of Crystal River Units 1 and 2 and replacing the generation with alternative sources is the preferable option from a number of perspectives in response to the MATS standards. However, PEF is evaluating alternative fuel options that would allow Crystal River Units 1 and 2 to continue operating in compliance with MATS for a limited period of time. PEF plans to schedule and obtain permits for operational tests in 2013 to determine how the units perform with alternative coals. If these tests are successful, it may be possible for PEF to extend Crystal River Units 1 and 2 operations to the 2018-2020 timeframe in compliance with MATS.

10. As the Commission has previously recognized, "[a]n effective way to control the costs of complying with a particular environmental law or regulation can be participation in the

regulatory and legal processes involved in defining compliance.” Order No. PSC-08-0775-FOF-EI, at 7-8 (Nov. 24, 2008). Based on that understanding, the Commission has repeatedly approved ECRC recovery of costs incurred by utilities for technical analyses and other activities associated with participation in development of regulatory compliance measures. See e.g., Order No. PSC-11-0553-FOF-EI, at p. 11 (Dec. 7, 2011) (approving ECRC recovery of associated with activities necessary for PEF to assess and develop compliance strategies for the proposed MATS standards); Order No. PSC-08-0775-FOF-EI, at 7-8 (Nov. 24, 2008) (costs for participating in rulemaking and legal proceedings related to EPA’s Section 316(b) Phase II rules); Order No. PSC-09-0759-FOF-EI (Nov. 18, 2009) (costs for emissions monitoring and modeling associated with development of TMDLs and parallel air rulemaking); Order No. PSC-05-1251-FOF-EI (Dec. 22, 2005) (costs associated with technical analysis and legal challenges to Clean Air Interstate Rule); and Order No. PSC-00-0476-PAA-EI (Mar. 6, 2000) (costs associated with participating in ozone modeling study). Accordingly, PEF’s costs to perform alternative coal trials in developing a MATS compliance strategy for Crystal River Units 1 and 2 are recoverable under the ECRC.

11. The preliminary cost estimate to perform alternative coal trials on Crystal River Units 1 and 2 is about \$1 million. Such costs were not included in the MFRs that PEF filed in its last ratemaking proceeding in Docket No. 090079-EI. Therefore, the costs are not recovered in PEF’s base rates.

12. PEF does not seek to change the ECRC factors currently in effect for 2013. The Company proposes to include in its estimated true-up filing for 2013 all program costs incurred subsequent to the filing of this petition through the end of 2013.

IV. No Material Facts in Dispute.

13. PEF is not aware of any dispute regarding any of the material facts contained in this petition. The information provided in this petition demonstrates that the programs for which approval is requested meets the requirements of Section 366.8255 and applicable Commission orders for recovery through the ECRC.

REQUEST FOR RELIEF

WHEREFORE, Progress Energy Florida, Inc., respectfully requests that the Commission:

A. Approve the Company's final end-of-the period Environmental Cost Recovery True-Up amount of an over-recovery amount of \$12,631,810, and an under-recovery of \$2,001,164 as the adjusted net true-up for the period January 2012 through December 2012; and

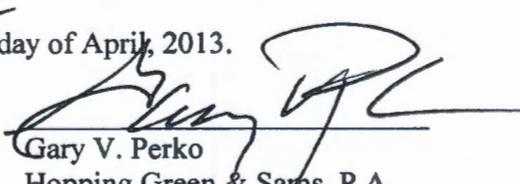
B. Approve establishment of a regulatory asset and associated three-year amortization schedule for costs associated with PEF's previously approved permanent thermal discharge compliance project.

C. Modify the scope of PEF's previously approved Integrated Clean Air Compliance Program to encompass alternative coal trials associated with the Crystal River Units 1 and 2 MATS compliance project described above, such that the costs associated with such activities may be recovered through the ECRC

RESPECTFULLY SUBMITTED this 19 day of April, 2013.

John T. Burnett
Dianne M. Triplett
Progress Energy Florida, Inc.
299 First Avenue North (33701)
St. Petersburg, FL 33701

By:


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Attorneys for Progress Energy Florida, Inc.