

Hopping Green & Sams

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050316 - E1

May 6, 2005

BY HAND DELIVERY

Blanca Bayó
Director, Office of the Commission Clerk
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

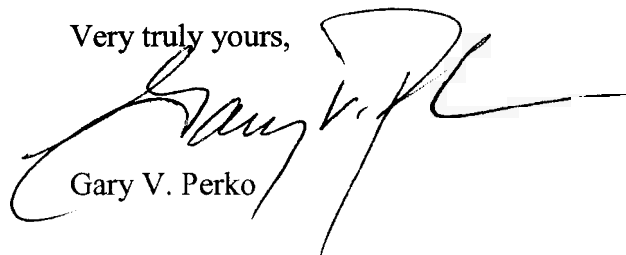
Re: Petition of Progress Energy Florida for Approval of New Environmental Program
for Cost Recovery under the Environmental Cost Recovery Clause.

Dear Ms. Bayó:

Enclosed for filing on behalf of Progress Energy Florida are the original and seven copies of its Petition for Approval of New Environmental Program for Cost Recovery under the Environmental Cost Recovery Clause, along with a diskette containing the Petition in Word Format. I also have enclosed a CD-ROM with Exhibits PEF-1 and PEF-2 in adobe acrobat pdf format.

Please stamp and return the enclosed extra copy of this filing. If you have any questions regarding this filing, please give me a call at 425-2359.

Very truly yours,



Gary V. Perko

GVP/mee
Enclosures
cc: R. Alexander Glenn

DOCUMENT NUMBER - 1

MAY 7 2005

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition of Progress Energy Florida, Inc., for approval of integrated Clean Air Regulatory Compliance Program for cost recovery through the Environmental Cost Recovery Clause.

DOCKET NO. _____

FILED: May 6, 2005

**PETITION OF PROGRESS ENERGY FLORIDA, INC.
FOR APPROVAL OF COST RECOVERY OF
ENVIRONMENTAL COMPLIANCE PROGRAM**

Florida Power Corporation d/b/a Progress Energy Florida, Inc. ("PEF" or the "Company"), pursuant to Section 366.8255, Florida Statutes, and Florida Public Service Commission ("Commission") Order Nos. PSC-94-0044-FOF-EI and PSC-99-2513-FOF-EI, hereby petitions for approval for cost recovery through the Environmental Cost Recovery Clause ("ECRC") of an integrated environmental compliance program necessitated by a new Clean Air Interstate Rule ("CAIR") and a new Clean Air Mercury Rule ("CAMR") adopted by U. S. Environmental Protection Agency ("EPA") pursuant to its authority under the federal Clean Air Act. In support of this petition, PEF states:

1. **Petitioner.** PEF is a public utility subject to the regulatory jurisdiction of the Commission under Chapter 366, Florida Statutes. The Company's principal offices are located at 100 Central Avenue, St. Petersburg, Florida.

2. **Service.** All notices, pleadings and other communications required to be served on PEF should be directed to:

Gary V. Perko
Karyl L. Alderman
Hopping Green & Sams, P.A.
123 S. Calhoun Street (32301)
P.O. Box 6526
Tallahassee, FL 32314

R. Alexander Glenn
Deputy General Counsel
Progress Energy Service Co., LLC
100 Central Avenue
St. Petersburg, FL 33701-3324
alex.glenn@pgnmail.com

3. **Cost Recovery Eligibility.** PEF will incur costs for its Clean Air Regulatory Compliance Program in order to comply with new environmental requirements established by EPA. As shown below, the new program meets the criteria for cost recovery established by the Commission in Order No. PSC-94-0044-FOF-EI in that:

- (a) all expenditures will be prudently incurred after April 13, 1993;
- (b) the activities are legally required to comply with a governmentally imposed environmental regulation that was created, became effective, or whose effect was triggered after the company's last test year upon which rates are based; and
- (c) none of the expenditures are being recovered through some other cost recovery mechanism or through base rates.

The information provided below satisfies the minimum filing requirements established in Part VI of Order No. PSC-99-2513-FOF-EI.

4. **Governmentally Imposed Environmental Regulation.** PEF seeks approval to recover through the ECRC the costs incurred after the filing of this petition for development and implementation of an integrated strategy for complying with EPA's new CAIR and CAMR rules. The Acting Administrator of EPA signed the final CAIR rule on March 10, 2005, and the final CAMR rule on March 15, 2005. Both rules constitute "governmentally imposed environmental regulation enacted after the utility's last test year upon which rates are based," as contemplated by Order No. PSC-94-0044-FOF-EI.¹

The Clean Air Interstate Rule ("CAIR")

5. CAIR imposes significant new restrictions on emissions of sulfur dioxide ("SO₂") and nitrogen oxides ("NO_x") from power plants in 28 eastern states, including Florida, and the

¹ The rules have not been published in the Federal Register, but are expected to be published any time. Pre-publication copies of the final CAIR and CAMR rules and their regulatory preambles are provided as Exhibits PEF-1 and PEF-2 respectively.

District of Columbia. The rule restricts emissions in two phases for both pollutants. During the first phase for SO₂, from 2010 through 2014, region-wide SO₂ emissions from power plants will be capped at approximately 3.6 million tons per year. In the second phase, beginning in 2015 and continuing thereafter, the region-wide cap will be set at approximately 2.5 million tons per year. Region-wide NO_x emissions from power plants will be capped at 1.5 million tons per year during the first phase (2009-14) and 1.3 million tons during the second phase (2015 and beyond). According to EPA, the phase II caps represent a 73 percent emission reduction for SO₂ and a 61 percent reduction for NO_x when compared with 2003 levels.

6. The CAIR rule apportions region-wide SO₂ and NO_x emission reduction requirements to the individual states. The rule further requires each affected state to revise its State Implementation Plans (“SIP”) by September 2006 to include measures necessary to achieve its emission reduction budget within the prescribed deadlines for phase I and phase II. States must achieve the required emission reductions using one of two compliance options: (1) meet the state’s emission budget by requiring power plants to participate in an EPA-administered interstate cap-and-trade system that caps emissions in the two stages outlined above, or (2) meet the state’s emission budget through alternative measures.²

7. Under the “cap-and-trade” program envisioned by EPA, utilities will have flexibility to comply with the rules through a variety of methods. EPA has already allocated each power plant owner a certain number of “allowances” each year for SO₂ under the Clean Air

² For NO_x, Florida’s annual budget is 99,445 tons (a reduction of 51,649 tons) from 2009–2014, and 82,871 tons (68,126 ton reduction) from 2015 on. For ozone-season (i.e., May through September) the NO_x budgets are 47,912 tons in 2009 and 39,926 tons in 2015 and beyond. For SO₂, Florida’s annual budget is 253,450 tons (a 253,450 ton reduction) from 2010–2014 and 177,415 tons (329,485 ton reduction) from 2015 on. Under a cap-and-trade program, the relevant number of offsets would be required for any emissions above these budgets. If the state does not opt for cap-and-trade, it must establish other means of achieving the budgets.

Act Title IV program, and EPA will now allocate allowances for NO_x as well. Beginning in 2009³ for NO_x and 2010 for SO₂, at the end of each year, the power plant owner must hold one NO_x allowance for each ton of NO_x emitted, and two SO₂ allowances for each ton of SO₂ emitted (under the current Title IV program only one allowance is required for each ton of SO₂ emitted). In 2015, the SO₂ allowance requirement will be increased to 2.86 for each ton of SO₂ emitted. When a power plant owner, like PEF, projects emissions in excess of the number of allowances it will be allocated under the new caps, there are two basic approaches that can be used either separately or in combination to achieve compliance. First, the owner can reduce emissions to ensure that annual emissions of each pollutant are equal to or less than the number of allowances held at the end of that year for each pollutant. Second, it can obtain additional allowances from other allowance holders in the CAIR region to make up any deficiency between the number of allowances it holds and the number of tons emitted from its units.

The Clean Air Mercury Rule (“CAMR”)

8. EPA adopted the CAMR rule at essentially the same time as the CAIR rule because SO₂ and NO_x emissions controls also can reduce mercury emissions; thus, according to EPA, the coordinated regulation of mercury, SO₂, and NO_x allows mercury reductions to be achieved in a cost effective manner. Much like the CAIR Rule, the CAMR rule employs a cap on total mercury emissions from coal-fired power plants in order to achieve significant emissions reductions. Mercury emissions from new and existing coal-fired utility units will be capped at specified, nation-wide levels. The first phase cap of 38 tons per year will become effective in 2010 and a second phase cap of 15 tons per year will become effective in 2018. According to

³ As originally proposed by EPA, the CAIR rule would have established 2010 as the initial compliance date for NO_x. However, the final rule moved up the compliance dated to 2009. PEF is continuing to assess compliance alternatives in light of this development.

EPA, the 2018 cap reflects a level of mercury emissions reduction that exceeds the level that would be achieved solely as a co-benefit of controlling SO₂ and NO_x under CAIR.

9. Like the CAIR rule, the CAMR rule allows states to achieve the required reductions by joining an EPA-managed cap-and-trade program for electric coal-fired power plants, or by imposing specific control requirements to ensure that the required emissions reductions are achieved. Under the EPA-managed cap-and-trade program, facilities would demonstrate compliance with the standard by holding one allowance for each ounce of mercury emitted in any given year. Allowances would be readily transferable among all regulated facilities.

10. **Compliance Activities.** In anticipation of the CAIR and CAMR rules, PEF has considered numerous options for reducing emissions and/or trading allowances in order to develop the most cost-effective, company-wide compliance strategy. Because SO₂ and NO_x controls also are effective in reducing mercury emissions, PEF is developing an integrated compliance strategy for the CAIR and CAMR rules. Using an industry standard system planning model, PEF has analyzed numerous compliance options, including changes in fuel types and quality, operational restrictions and unit retirements, repowerings, installation of pollution control technology, and allowance trading. Based on the system planning modeling, regardless of the compliance program ultimately chosen by the State of Florida, PEF will need to install emission controls on several of its electric generating units in order to achieve compliance in a cost-effective manner. Such controls will include flue gas desulfurization (“FGD”) for SO₂ emissions, selective catalytic reduction (“SCR”), selective non-catalytic reduction (“SNCR”), and low NO_x burners/over-fire air (“LNB/OFA”) for NO_x emissions, and the combination of FGD and SCR for the reduction of mercury emissions.

11. In order to meet the aggressive CAIR/CAMR compliance deadlines and the extensive lead times associated with air emission control projects, PEF is contracting with a team of outside vendors to perform strategy development work that will be ongoing over the next several months. Based on the Company's experience, SCR projects generally require approximately 30-36 months to complete, while FGD projects generally require approximately 42-48 months and LNB/OFA and SNCR projects generally require 18-24 months. Given these project durations and the need to complete certain projects as early as 2006 to take advantage of scheduled outages so as to maintain system reliability, PEF must begin preliminary engineering work in the spring or summer of 2005. This will be followed by more detailed engineering studies intended to produce unit specific cost and performance data that will allow PEF to decide between various alternatives based on their relative cost-effectiveness.

12. **Projected Costs.** PEF estimates the program costs for the remainder of 2005 to be approximately \$2 million for preliminary engineering activities and strategy development work necessary to determine the Company's integrated compliance strategy. PEF preliminarily projects approximately \$62 million in program costs for 2006. These costs may increase or decrease depending upon the results of the engineering and strategy development work. Among other things, subsequent rule interpretations, equipment availability, or the unexpected acceleration of the initial NO_x or other compliance dates noted above could require acceleration of some projects and therefore result in additional costs in 2005 and 2006. PEF's preliminary estimate for 2006 includes (1) anticipated costs for completion of studies initiated in 2005, (2) design and engineering work on SCR and FGD projects at PEF's Crystal River Units 4 and 5, (3) initiation of studies, engineering and designs for LNB/OFA and possibly SNCR projects at PEF's Bartow and Anclote Plants, and (4) procurement of materials for and commencement of

construction of initial LNB/OFA projects at Anclote and Bartow, two SCR and FGD projects at Crystal River Units 4 and 5. PEF expects to incur significant additional capital and O&M costs to achieve compliance with the CAIR/CAMR through 2015 and beyond. Future projects likely will include (1) study, design and engineering work, (2) procurement, construction and commissioning of additional SCR and FGD projects at Crystal River, (3) additional LNB/OFA projects at Anclote and Bartow and (4) possible SNCR projects at Anclote and Bartow. The timing and extent of the costs for future projects will depend on the final compliance strategy.

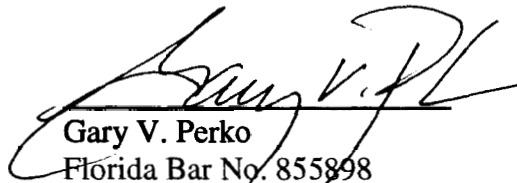
13. **No Recovery through Base Rates or Other Recovery Mechanisms.** None of the costs for which PEF seeks recovery are recovered in base rates or through any other cost recovery mechanism.

14. **No Change in Current ECRC Factors.** PEF does not seek to change the ECRC factors currently in effect for 2005. PEF will include program costs incurred subsequent to the filing of this petition through the end of 2005 in its estimated/actual true-up filing in Docket No. 050007-EI. PEF will include updated cost projections for 2006 in its projection filing in Docket No. 050007-EI. Costs for subsequent years will be included in PEF's annual ECRC filings. PEF expects that all of these costs will be subject to audit by the Commission and that the appropriate allocation of program costs to rate classes will be addressed in connection with those subsequent filings.

15. **No Material Facts in Dispute.** 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, Florida Statutes, and Commission orders for recovery through the ECRC.

WHEREFORE, Progress Energy Florida, Inc., respectfully requests that the Commission approve for recovery through the Environmental Cost Recovery Clause the costs incurred after the date of this petition in connection with its integrated Clean Air Regulatory Compliance Program.

RESPECTFULLY SUBMITTED this  day of May, 2005.



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St. Petersburg, FL 33701-3324

Attorneys for PROGRESS ENERGY FLORIDA, INC.

AFFIDAVIT

STATE OF FLORIDA)
)
COUNTY OF PINELLAS)

The undersigned JAVIER PORTUONDO, first being duly sworn, deposes and says:

1. I am employed by Progress Energy Service Company, L.L.C, as Director, Regulatory Services -- Florida.

2. I have reviewed the above Petition of Progress Energy Florida, Inc. for approval of integrated Clean Air Regulatory Compliance Program for cost recovery through the Environmental Cost Recovery Clause and the facts stated in that petition are true and correct to the best of my knowledge, information and belief.


Javier Portuondo

Sworn to and subscribed before me by Javier Portuondo, who:

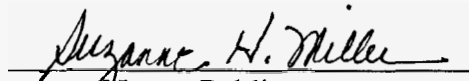
is personally known to me

presented _____ Drivers License Number _____ as

identification

this 3rd day of May, 2005.




Notary Public