

Matilda Sanders

From: Bullock, Karen [kbullock@mckennalong.com]
Sent: Tuesday, July 12, 2005 3:24 PM
To: Filings@psc.state.fl.us
Subject: Electronic filing - Docket No. 050078-EI

Importance: High

Attachments: CG PETITION.pdf; AFFIDAVI.pdf

 
CG AFFIDAVI.pdf
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a. Person responsible for this electronic filing:

David Brown
McKenna Long & Aldridge, LLP
303 Peachtree Street, N.E., Suite 5300
Atlanta, Georgia 30308
404-527-4927
dbrown@mckennalong.com

b. Docket No. 050078-EI re Petition for Rate Increase of Progress Energy Florida, Inc.

c. Document being filed on behalf of the Commercial Group

d. Total number of pages - Petition to Intervene (6 pages);
Affidavit of Alan R. Jenkins (2 pages)

e. The document attached for electronic filing - The Commercial Group's Petition to Intervene,
Affidavit of Alan R. Jenkins

<<CG PETITION.pdf>> <<AFFIDAVI.pdf>>

Karen Bullock
McKenna Long & Aldridge, LLP
Suite 5300, 303 Peachtree Street
Atlanta, GA 30308
404-527-8369
404-527-4198 - fax
kbullock@mckennalong.com

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Petition to Intervene
DOCUMENT NUMBER-DATE

06571 JUL 12 05

FPSC-COMMISSION OF ENVIRONMENTAL PROTECTION

Affidavit

DOCUMENT NUMBER-DATE

06572 JUL 12 05

FPSC-COMMISSION OF ENVIRONMENTAL PROTECTION

ORIGINAL

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Petition for Rate Increase of
Progress Energy Florida, Inc.

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Docket No. 050078-EI

Filed: July 12, 2005

PETITION TO INTERVENE OF THE COMMERCIAL GROUP

Pursuant to Florida Statutes Chapter 120 and Florida Administrative Code Rules 25-22.039 and 28-106.205, the Commercial Group hereby respectfully files its Petition to Intervene.

In support thereof, the Commercial Group respectfully shows the following:

1.

The affected agency is the Florida Public Service Commission ("Commission") and its address is 2540 Shumard Oak Boulevard, Tallahassee, FL 32399-0850.

2.

The Commercial Group's interest and grounds for intervention are based on the following facts:

a. The Commercial Group is an ad hoc association of commercial customers of Progress Energy Florida, Inc. ("PE") that are joining together to protect their interests in this proceeding, thereby minimizing the cost to any individual customer. *Florida Home Builders Ass'n v. Dept. of Labor and Employment Security*, 412 So.2d 351, 353 (Fla. 1982). This association includes BJ's Wholesale Club, Inc., J.C. Penney Company, Inc., Lowe's Home Centers, Inc., and Wal-Mart Stores East, L.P.

b. The Commission proposes to examine in the above docket the rates of PE that it charges its commercial customers and PE proposes to increase substantially the rates it charges members of the Commercial Group, which would injure these members.

Accordingly, the Commercial Group has an interest in this proceeding.

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FPSC-COMMISSION CLERK

c. The interests of the Commercial Group are not adequately represented by other parties to this proceeding. As some of PE's largest commercial customers, the Commercial Group has interests that differ from other intervenors. Further, the group's members receive electric service from providers across the country and therefore, the Commercial Group is able to offer a unique perspective on PE's proposal to receive an ROE incentive bonus for superior service. Moreover, this intervention would not unduly delay the proceedings or prejudice the rights of other parties.

3.

The address and telephone number of the Commercial Group is:

The Commercial Group
c/o McKenna Long & Aldridge LLP
One Peachtree Center
303 Peachtree Street
Suite 5300
Atlanta, Georgia 30308
(404) 527-4642

With respect to "when and how the petitioner received notice of the agency decision," the Commercial Group is not aware that the Commission has reached a decision in this case except an order establishing a procedure to hold hearings and review PE's rate increase application. Members of the Commercial Group received notice of the proceeding from news reports and conversations and some of its account managers may have received information directly from PE. As for a "statement of all disputed issues of material fact" and a "statement of the ultimate facts alleged," the lists might be long and the Commercial Group intends to provide more detailed information at the appropriate points in the procedural schedule. However, in general, the Commercial Group disputes that PE has established that it should recover any or all of the \$206 million in additional annual revenue requirements that it seeks to recover from its customers and alleges that PE should not receive the requested rate increase. The Commercial

Group is analyzing PE's substantial filing to determine how best it can add value to the efforts of the other parties to this proceeding without unnecessary duplication of those efforts and intends to file testimony and exhibits directed at certain parts of PE's rate increase filing in accordance with the guidelines established in the Commission's order establishing procedure. The Commercial Group is not aware of a rule or statute that "requires reversal or modification of the agency's proposed action" and indeed is not aware that the Commission has proposed any specific action that the Commission will take in this proceeding other than the order establishing procedure and to review and carefully consider the testimony and exhibits of the various parties to the proceeding. Finally, with respect to "stating precisely the action petitioner wishes the agency to take," the Commercial Group desires (or requests) that the Commission establish just and reasonable rates for each PE customer in this proceeding.

4.

The Commercial Group designates the following person to be its qualified representative, to receive all notices, correspondence, and filings in the above docket, and to be placed upon the official service list in this proceeding. The Commercial Group finds Mr. Jenkins to be well-qualified to represent its interests in this proceeding and desires Mr. Jenkins to do so. His affidavit is included herewith:

Alan R. Jenkins
McKenna Long & Aldridge LLP
One Peachtree Center
303 Peachtree Street
Suite 5300
Atlanta, Georgia 30308
(404) 527-4642

WHEREFORE, the Commercial Group respectfully requests that the Commission grant the intervention of the Commercial Group in this docket allowing it to participate fully as a party of record.

This 21st day of July, 2005.

Respectfully submitted,

/s/ David Brown

David Brown

Florida Bar No. 0551325

For McKENNA LONG & ALDRIDGE LLP

Attorneys for the Commercial Group

One Peachtree Center

303 Peachtree Street, N.E., Suite 5300

Atlanta, Georgia 30308

(404) 527-4000

CERTIFICATE OF SERVICE

I, David Brown, an attorney for The Commercial Group, hereby certify that I have served Petition To Intervene Of The Commercial Group upon the following parties in Docket No. 050078 by depositing a copy of same in the United States mail with sufficient postage, addressed as follows:

Florida Public Service Commission
Wm. Cochran Keating, IV, Esq.
Katherine Fleming, Esq.
2540 Shumard Oak Blvd.
Tallahassee, FL 32399-0850

AARP
c/o Michael B. Twomey, Esq.
P.O. Box 5256
Tallahassee, FL 32314-5256

Florida Industrial Power Users Group
John W. McWhirter
McWhirter Reeves, Davidson,
Kaufman & Arnold, P.A.
400 North Tampa Street, Suite 2450
Tampa, FL 33602

Timothy J. Perry
McWhirter Reeves, Davidson,
Kaufman & Arnold, P.A.
117 South Gadsden Street
Tallahassee, FL 32301

Harold A. McLean
Joseph A. McGlothlin
Patricia Christensen
Office of the Public Counsel
c/o The Florida Legislature
111 West Madison Street, Room 812
Tallahassee, FL 32399

Florida Retail Federation
100 E. Jefferson St.
Tallahassee, FL 32301

Scheffel Wright
John LaVia
Landers Law Firm
Scheffel Wright/John LaVia
P.O. Box 271
Tallahassee, FL 32302

White Springs Agricultural Chemicals, Inc.
P.O. Box 300
White Springs, FL 32096

PCS Administration (USA), Inc.
Karin S. Torain
Suite 400
Skokie Boulevard
Northbrook, IL 60062

Progress Energy Florida, Inc.
Mr. Paul Lewis, Jr.
106 East College Ave., Suite 800
Tallahassee, FL 32301-7740

Progress Energy Service Company, LLC
James A. McGee/R. Alexander Glenn
P.O. Box 14042
St. Petersburg, FL 33733

Richard A. Zambo, P.A.
21336 S.E. Ocean Blvd., #309
Stuart, FL 34996

Sutherland Asbill Law Firm (DC)
James Bushee/Daniel Frank
1275 Pennsylvania Ave., N.W.
Washington, DC 20004-2415

Sutherland Asbill Law Firm (Tall)
C. Everett Boyd, Jr.
2282 Killearn Center Blvd.
Tallahassee, FL 32309-3576

Carlton Fields Law Firm
G. Sasso/J. Walls/J. Burnett/D. Triplett
P.O. Box 3239
Tampa, FL 33601-3239

This 24 day of July, 2005.

/s/ David Brown
David Brown