

ORIGINAL

Timolyn Henry

060387

From: ljacobs50@comcast.net
Sent: Thursday, September 28, 2006 4:51 PM
To: Filings@psc.state.fl.us
Cc: swright@yvlaw.net; rdulgar@yvlaw.net; paul.lewisjr@pgnmail.com; john.burnett@pgnmail.com
Subject: Amended Petition in DN 060387
Attachments: Amended_Protest_Petition_DN060387.doc; Arundo analysis in CA.pdf

September 28, 2006

Florida Public Service Commission
 2540 Shumard Oak Blvd
 Tallahassee, Florida 32399

RE: Docket No. 060387

Dear Sir or Madame,

Attached please find an amended petition protesting the proposed agency action in the above-referenced docket, with Exhibit. Please accept this amended petition in place of the original filing.

Sincerely,

/s/ E. Leon Jacobs, Jr.
 Counsel for Petitioners

- CMP _____
- COM _____
- CTR _____
- ECR _____
- GCL _____
- OPC _____
- RCA _____
- SCR _____
- SGA _____
- SEC 1
- OTH _____

Analysis *Petition*
 DOCUMENT NUMBER-DATE DOCUMENT NUMBER-DATE
 09025 SEP 28 08 09024 SEP 28 08
 FPSC-COMMISSION CLERK FPSC-COMMISSION CLERK

9/28/2006

ORIGINAL

BEFORE THE PUBLIC SERVICE COMMISSION

In re: Request for approval of contract with a
qualifying facility for purchase of firm capacity
and energy between Florida Power Corporation
d/b/a Progress Energy Florida, Inc. and
Florida Biomass Energy Group, L.L.C.

DOCKET NO.: 060387 EQ

AMENDED PETITION TO PROTEST COMMISSION ACTION

Petitioners Ben Fusaro, 203 Ridgeland Road, Tallahassee, Florida, Karen Orr and Dick Stokes, 715 NE 2nd Street, Gainesville, Florida, Brian Scherf, 1060 Tyler Street, Hollywood, Florida, Ashlie Hood and Dave McSherry, 1407 Petronia Street, Key West, Florida, Winnie Foster, 311 57th Avenue South, St. Petersburg, Florida, Betsy Roberts, 3227 Ashton Road, Sarasota, Florida, and, Lee and December McSherry, 15212 SW 79th Avenue, Archer, Florida, hereby file this petition to protest the action of the Florida Public Service Commission ("FPSC") in the above-styled matter, and reasons therefore state:

1. Petitioners Ben Fusaro, 203 Ridgeland Road, Tallahassee, Florida 32312, Karen Orr and Dick Stokes, 715 NE 2nd Street, Gainesville, Florida 32601, Brian Scherf, 1060 Tyler Street, Hollywood, Florida 33019, Ashlie Hood and Dave McSherry, 1407 Petronia St, Key West, Florida 33040, Winnie Foster, 311 57th Ave South, St. Petersburg, Florida 33705, Betsy Roberts, 3227 Ashton Road, Sarasota, Florida 34231, and Lee and December McSherry, 15212 SW 79th Avenue, Archer, Florida, each have substantial interests which are harmed by the proposed agency action in the above-styled matter.

2. By Order dated August 15, 2006, the FPSC approved a contract (hereinafter "agreement") for purchase of electric power between Progress Energy Corp, Inc. and Florida Biomass Energy Group, LLC.

3. The power to be purchased under this agreement is to be generated on a farm where the invasive plant, Arundo Donax, will be grown as a fuel to operate an on-site electric generating plant.

4. The parties to the agreement assert that the crop will be grown and harvested in a continuous cycle for conversion into liquid fuel for a traditional combined cycle generator, for a period of 25 years.

5. The agreement obligates Progress Energy to pay undisclosed prices for 116.6 megawatts of firm capacity and energy over the 25-year life of the agreement. Further, Progress Energy asserts that the agreement will defer the building of a 528 megawatt combined cycle unit in 2009.

6. The FPSC approved the agreement as a cost-effective measure based primarily upon a projected savings of \$39 million over the 25-year term, the largest portion of which would be fuel costs. Thus, the economic viability of this project hinges upon of the substantial savings projected by using the bio-fuel from Arundo Donax.

DOCUMENT NUMBER-DATE

09024 SEP 28 08

FPSC-COMMISSION CLERK

7. Arundo Donax is an invasive plant which carries with it a host of negative impacts on surrounding vegetation and water bodies.

8. The measures of cost effectiveness for the purchase of power under the agreement rely heavily upon precise cost projections for growing, harvesting and processing arundo donax as a generation fuel for 25 years. Experience with this plant demonstrates that a 25 continuous growing cycle in one location is improbable for this plant.

9. The cost analysis for power under the agreement is open to further uncertainty because management and maintenance costs for arundo donax in a controlled environment are highly volatile costs. In order to be accurate, these cost projections must address the ecological and biological management costs of producing the crop as a fuel in an environment where its very presence can ultimately lead to increased chances of flooding and wild fires. Where the plant is allowed to grow in volume, as is anticipated in this agreement, and when floods and fires occur, then it can dramatically increase the damage suffered through floods and fires. For a further discussion of the risks associated with arundo donax see Exhibit A.

10. The FPSC is unable to accurately gauge the risks associated with the agreement because of these uncertainties.

WHEREFORE, Petitioners further request a hearing on the matter to determine the ultimate appropriateness of the proposed contract.

DATED THIS 28th DAY OF SEPTEMBER, 2006.

Respectfully submitted,

/s/ E. Leon Jacobs

E. Leon Jacobs, Jr.
Williams, Jacobs & Associates, LLC
P.O. Box 1101
Tallahassee, Florida 32302
(850) 222-1246
Fla. Bar ID. 0714682

Certificate of Service

I certify that a copy was provided this 28th day of September, 2006, by electronic service to Martha Brown, FPSC General Counsel's Office, 2540 Shumard Oak Blvd., Tallahassee, Florida, Robert Scheffel Wright, 225 S Adams, Tallahassee, Fl; Paul Lewis, 106 E. College St, Tallahassee, Florida, and John Burnett, P.O. Box 14042, St. Petersburg, FL.