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Sent: Thursday, November 02, 2006 4:58 PM
To: Filings@psc.state.fl.us
Subject: DOCKET NO. 060635EU - PETITION TO INTERVENE AND MOTION FOR EXTENSION OF TIME
Attachments: NRDC Motion for Extension.doc; NRDC Intervention.doc; Request for Qualified Representative.doc

Filed BY:

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Docket No. 060635-EU

On Behalf of the Natural Resources Defense Council

Please find attached:

(1) The Natural Resources Defense Council's Petition to Intervene in Docket No. 060635-EU, Petition for determination of need for Electrical power plant in Taylor County by Florida Municipal Power Agency, JEA, Reedy Creek Improvement District, and City of Tallahassee, consisting of ten pages.

AND

(2) The Natural Resources Defense Council's Motion for Extension of Time to File Testimony in Docket No. 060635-EU, Petition for determination of need for Electrical power plant in Taylor County by Florida Municipal Power Agency, JEA, Reedy Creek Improvement District, and City of Tallahassee, consisting of five pages.

CMP AND

COM (3) Expedited Request for Naming of a Qualified Representative - three pages

CTR

ECR Copies of each filing has been served on the other parties to the proceeding.

GCL

OPC

RCA

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10167 NOV-2 8

FPSC-COMMISSION CLERK

# ORIGINAL

November 2, 2006

Blanca Bayo  
Director, Office of the Commission Clerk  
Florida Public Service Commission  
2540 Shumard Oak Blvd  
Tallahassee, Florida 32399-0850

**RE: Docket No. 060635-EU, Petition for determination of need for Electrical power plant in Taylor County By Florida Municipal Power Agency, JEA, Reedy Creek Improvement District, and City of Tallahassee.**

Dear Ms. Bayo:

The Natural Resources Defense Council hereby submits the attached Motion for Extension of Time to File Testimony in the above referenced proceeding, consisting of five pages. I thank you for your attention to this matter.

Sincerely,

*/s/ Patrice L Simms*

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Patrice L. Simms  
Senior Project Attorney  
Natural Resources Defense Council  
1200 New York Ave., NW  
Suite 400  
Washington, D.C. 20005

DOCUMENT NUMBER-DATE

10167 NOV-28

FPSC-COMMISSION CLERK

BEFORE THE PUBLIC SERVICE COMMISSION

In re: Petition for determination of need for	)	
Electrical power plant in Taylor County by	)	
Florida Municipal Power Agency, JEA, Reedy	)	Docket No. 060635EU
Creek Improvement District, and City of	)	
Tallahassee.	)	

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Motion for Extension of Time to File Testimony

The Natural Resources Defense Council (NRDC), pursuant to applicable provisions of the Florida Administrative Code, files this motion with the Florida Public Service Commission (FPSC) requesting extension of time to file detailed testimony in this docket. While NRDC has filed preliminary testimony from Daniel Lashof and Dale Bryk addressing important general observations about the need for adequate evaluations of need and of alternatives to the proposed Taylor Energy Center (TEC), and about the need to fully address risks associated with new coal-fired power plants (including economic risks associated with future regulation of carbon dioxide), additional time is required to allow NRDC to closely scrutinize the TEC proposal and provide complete and detailed testimony. Allowing such testimony would be in the public interest, and would benefit that FPSC’s evaluation of the substantive considerations at issue in this docket. In support of this motion NRDC states as follows:

1. Owners of the proposed TEC project, Jacksonville Electric Authority (JEA), the City of Tallahassee, the Reedy Creek Improvement District (RCID), and the

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FPSC-COMMISSION CLERK

Florida Municipal Power Agency (FMPA), filed a Petition for a Determination of Need in this docket on or about September 19, 2006.

2. By Order dated October 4, 2006 FPSC establishing procedures for the above captioned docket (the “Procedural Order”), the Commission required interveners to file testimony and associated exhibits by October 24, 2006.

3. By subsequent Amended Procedural Order the FPSC modestly adjusted the deadline for filing testimony and associate exhibits to November 2, 2006.

4. On November 2, 2006 NRDC filed its Petition to Intervene in this proceeding, along with the preliminary testimony of two witnesses, having just over six weeks to become aware of the Petition for a Determination of Need, determine what significant issues were raised in the Petition, identify appropriate experts, and prepare relevant testimony.

5. It is clear, based on public reports regarding plans for the proposed TEC project that work began on the proposal well more than a year before the filing of a Petition for a Determination of Need.

6. Even had NRDC become aware of the Petition on the day it was filed (which it did not), it would have had only a very short period of time, compared to the time required for Petitioners’ to prepare their application, to independently evaluate the voluminous and complex application, assess important issues, identify appropriate experts, and prepare substantive testimony.

7. The meaningful substantive participation of the public in the need determination proceeding is an important component of the regulatory process that can offer important information, insights, and analysis, can facilitate more thoughtful and

complete decisionmaking, and can materially benefit the PSC review. Indeed, this is manifestly the intent of the public participation requirements.

8. The FPSC has itself issued at least two discovery request to the Owners of the proposed TEC project since receiving the Petition for a Determination of Need, suggesting that the application was potentially deficient as filed, and is deserving of greater scrutiny than the current schedule allows. Moreover, NRDC and other Intervenor should be accorded the opportunity to evaluate the record once it has been supplemented in response to FPSC's requestes, and offer testimony that incorporates consideration of any such supplementation.

9. On their face, the timetables established in both the Procedural Order and in the subsequent amended schedule are objectively unreasonable, as they are inadequate to allow for robust public scrutiny of the application and meaningful participation in the regulatory process, and may constitute a violation of Federal and/or State constitutional due process (as argued in the Emergency Motion for Extension of Time to File Testimony filed by Intervenor Armstrong on October 18, 2006).

10. Accordingly, consistent with principles of good government, administrative fairness, and constitutional due process, NRDC request that the FPSC issue an order extending the period for filing expert testimony by no less than 60 days, or by a longer period as the FPSC deems appropriate.

11. At minimum, the FPSC should adopt the alternative schedule proposed in **the Motion to Reconsider Order Granting in Part and Denying in Part Motion to Extend Discovery Schedule and Filing Date for Testimony and Exhibits of The**

**Sierra Club, Inc., John Hedrick, and Brian Lupiani**, filed October 31, 2006. That motion proposed the following:

(i) Petitioners and other intervenors will file basic testimony as presently provided; (ii) Owners will on the same date serve to intervenors copies of existing discovery responses to FPSC staff discovery; (iii) Intervenors will file first discovery requests to the Owners not later than five days after filing testimony. Every attempt will be made to consolidate and condense these requests; (iii) Owners will serve responses to intervenor discovery as soon as possible, but not later than thirty (30) days after receipt; (iv) Intervenors will be allowed to file supplemental testimony not later than ten (10) days after receipt of discovery responses and (v) Owners will be allowed to file rebuttal testimony to supplemental testimony not later than ten (10) days after receipt of supplemental.

WHEREFORE, NRDC respectfully requests that the prehearing officer issue an Order consistent with the requests presented in this motion.

RESPECTFULLY SUBMITTED this 2<sup>nd</sup> day of November, 2006.

*/s/ Patrice L. Simms*

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## CERTIFICATE OF SERVICE

I certify that a copy of this Motion for Extension of Time to File Testimony in Docket No. 060635-EU was provided this 2<sup>nd</sup> day of November, 2006, by electronic service and by regular mail to the following:

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