

**ORIGINAL**

**Matilda Sanders**

**From:** Mike Twomey [miketwomey@talstar.com]  
**Sent:** Monday, November 20, 2006 4:39 PM  
**To:** Filings@psc.state.fl.us  
**Cc:** Michael Walls; Triplett, Dianne; Schef Wright; CHRISTENSEN.PATTY; Joseph McGlothlin; Burnett, John; Alex Glenn; John McWhirter; Lisa Bennett; Paul Lewis  
**Subject:** Electronic Filing  
**Attachments:** AARP Petition to Intervene in Progress Energy CR3 Upgrade case.rtf

060642-EI

A. Person responsible for this electronic filing:

Michael B. Twomey  
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B. Docket No. 060642-EI PEF's Petition for Determination of Need for Expansion of an Electrical Power Plant . . . .

C. Document being filed on behalf of AARP.

D. There are a total of 5 pages.

E. The document attached for electronic filing is AARP's Petition to Intervene

The parties/individuals indicated on the certificate of service are being served both electronically and by U.S. Mail.

Thank you for your attention and assistance in this matter.

Mike Twomey

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DOCUMENT NUMBER-DATE

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FPSC-COMMISSION CLERK

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: PEF's Petition for Determination )  
Of Need for Expansion of an Electrical )  
Power Plant, for Exemption from Rule )  
25-22.082, F.A.C., and for Cost Recovery )  
through the Fuel Clause )  
\_\_\_\_\_ )

DOCKET NO. 060642-EI  
Filed: November 20, 2006

AARP PETITION TO INTERVENE

Pursuant to Sections 120.569 and 120.57(1), Florida Statutes and Rules 25-22.039, and 28-106.205, Florida Administrative Code, the AARP, through its undersigned attorney, files its Petition to Intervene, and in support thereof, states as follows:

- 1. The name and address of the affected agency is:

Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, Florida 32399-0850

- 2. The name and address of the petitioner is:

AARP  
200 West College Street  
Tallahassee, Florida 32301

- 3. All pleadings, motions, orders and other documents directed to the petitioner

should be served on:

Michael B. Twomey  
Post Office Box 5256  
Tallahassee, Florida 32314-5256  
Phone: (850) 421-9530  
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4. Progress Energy Florida, Inc. (“PEF”) is a regulated electric utility serving approximately 1.6 million retail customers throughout portions of the State of Florida.

5. AARP is a nonprofit membership organization dedicated to addressing the needs and interests of persons 50 and older. AARP has staffed offices in all 50 states, the District of Columbia, Puerto Rico and the U.S. Virgin Islands. AARP represents more than 35 million members in total, approximately 2.8 million of whom reside in the State of Florida. AARP’s Florida members reside throughout the state and a significant number of them are retail residential customers of PEF.

**AARP Florida Members’ Substantial Interests Affected**

6. As stated above, AARP has approximately 2.8 million members in the State of Florida, a significant number of whom reside in PEF’s service territory and take their electric service from the utility. Therefore, many of AARP’s members will be substantially affected by any action the Commission takes in this docket, which will necessarily include retail rate increases through the utility’s fuel adjustment charges if its requested relief is granted.

7. Statement of Affected Interests

The Commission will decide in this docket whether to approve PEF’s request, among the other relief requested, to recover the costs of it upgrading its Crystal River No. 3 nuclear generating unit through the Fuel and Purchased Power Cost Recovery Clause (“Fuel Clause”) as proposed. According to its petition filed in this docket, PEF states that the “estimated cost of the power uprate itself is approximately \$250 million.” AARP takes the position that it is legally inappropriate to attempt to recover the capital costs of power plant additions through the Fuel Clause, whether new construction or plant upgrades. Furthermore, AARP assumes that the \$250

million cited by PEF is the minimum amount that PEF will attempt to recover from AARP's members served by the utility and its other retail customers through the Fuel Clause.

8. AARP's members taking retail electric service from PEF have interests of the type this proceeding is designed to protect. See Agrico Chemical Company v. Department of Environmental Regulation, 406 So.2d 478 (Fla. 2<sup>nd</sup> DCA 1981). The purpose of the proceeding is to evaluate PEF's request and to review the nature of its costs and expenditures to determine if any such costs are appropriate for recovery as requested. These issues will affect AARP's PEF customer members' substantial interests by potentially increasing their costs of electricity, which necessarily will reduce their monies available for other purposes.

9. Disputed Issues of Material Fact

Whether the costs projected by PEF for the CR 3 upgrade are reasonable and prudent for the project as described.

10. Disputed Legal Issues

Whether it is legally permissible for PEF to request, and the Commission to allow, the utility to recover the capital costs associated with the CR 3 upgrade through the Fuel Clause, as opposed to through its base rates. Furthermore, whether this attempt to recover the capital costs associated with this power plant upgrade is contrary to the current rate case settlement agreement with AARP and its other customer groups whereby the utility has committed to not increase its base rates until after the expiration of the settlement agreement in 2009.

11. Statement of Ultimate Facts Alleged

PEF is attempting to circumvent its current settlement agreement with AARP and its

other customer groups by seeking to recover the capital costs associated with the proposed CR 3 upgrade through its Fuel Clause, as opposed to recovering those costs through its base rates.

WHEREFORE, AARP requests that this Commission grant it intervenor status in this docket as a full party on behalf of the significant number of its approximately 2.8 million Florida members taking retail electric service from Progress Energy Florida, Inc.

Respectfully submitted,

/s/ Michael B. Twomey

Michael B. Twomey

Attorney for

AARP

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Tallahassee, Florida 32314-5256

Telephone: 850-421-9530

Email: [miketwomey@talstar.com](mailto:miketwomey@talstar.com)

**CERTIFICATE OF SERVICE**

**I HEREBY CERTIFY** that a true and correct copy of this petition has been served by

U.S. Mail and electronic mail this 20<sup>th</sup> day of November, 2006 on the following:

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/s/ Michael B. Twomey  
Attorney