

Ruth Nettles

From: Al Taylor [Al.Taylor@bbrslaw.com]
Sent: Friday, May 02, 2008 4:07 PM
To: Filings@psc.state.fl.us
Cc: 'mwalls@carltonfields.com'; 'charles.gauthier@dca.state.fl.us'; 'paul.lewisjr@pgnmail.com'; 'Mike.Halpin@dep.state.fl.us'; 'john.burnett@pgnmail.com'; 'Kelly.jr@leg.state.fl.us'; Jay Brew; 'burgess.steve@leg.state.fl.us'; 'alex.glenn@pgnmail.com'; 'dtriplett@carltonfields.com'; Caroline Klancke; Katherine Fleming; Jean Hartman; Keino Young; 'Ljacobs50@comcast.net'; 'inglishydro@hotmail.com'; 'RobBrinkman@cox.net'
Subject: FPSC Docket No. 080148 - PCS Phosphate's Prehearing Statement
Attachments: PCS_Levy_Prehearing_Statement.doc

- a. Person responsible for filing

James W. Brew
Brickfield, Burchette, Ritts & Stone, P.C.
1025 Thomas Jefferson Street, N.W.
Eighth Floor West Tower
Washington, D.C. 20007
Tel: (202) 342-0800
Fax: (202) 342-0807
jwb@bbrslaw.com
- b. Docket No. 080148-EI, In Re: Petition for Determination of Need for Levy Units 1 and 2 Nuclear Power Plants
- c. Filed on behalf of White Springs Agricultural Chemicals, Inc. d/b/a PCS Phosphate – White Springs
- d. Total Pages = 8
- e. White Springs Agricultural Chemicals, Inc. d/b/a PCS Phosphate – White Springs' Prehearing Statement (attached as PCS_Levy_Prehearing_Statement.doc)

F. Alvin Taylor
BRICKFIELD BURCHETTE RITTS & STONE, PC
1025 Thomas Jefferson St, N.W.
Eighth Floor, West Tower
Washington, DC 20007
202-342-0800
Fax: 202-342-0807
ataylor@bbrslaw.com

DOCUMENT NUMBER-DATE

03654 MAY-28

FPSC-COMMISSION CLERK

**BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION**

**In Re: Petition for Determination of)
Need for Levy Units 1 and 2 Nuclear)
Power Plants)**
_____)

**Docket No. 080148-EI
Filed: May 2, 2008**

**PREHEARING STATEMENT OF
WHITE SPRINGS AGRICULTURAL CHEMICALS, INC.
d/b/a PCS PHOSPHATE – WHITE SPRINGS**

Pursuant to the Florida Public Service Commission’s March 12, 2008 *Order Establishing Procedure*, Order No. PSC-08-0151-PCO-EI (“*Procedural Order*”), White Springs Agricultural Chemicals, Inc. d/b/a PCS Phosphate – White Springs (“PCS Phosphate”), through its undersigned attorney, files its Prehearing Statement.

A. APPEARANCES

James W. Brew
F. Alvin Taylor
Brickfield, Burchette, Ritts & Stone, P.C.
1025 Thomas Jefferson St., NW
Eighth Floor, West Tower
Washington, DC 20007
Tel: (202) 342-0800
Fax: (202) 342-0800
E-mail: jbrew@bbrslaw.com

B. WITNESSES

PCS Phosphate will call the following witness:

Peter A. Bradford – Mr. Bradford will testify regarding the significant cost uncertainty and risk to Florida consumers presented by the proposed Levy County nuclear units, and the importance of confronting and addressing that risk in any determination of need granted by the Commission in this proceeding.

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03654 MAY-28

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C. EXHIBITS

Through Mr. Bradford, PCS Phosphate will sponsor Exhibit No. PAB-1 – Resume of Peter A. Bradford. PCS Phosphate may have additional exhibits based on the responses to its discovery requests received between now and the end of the discovery period, and PEF witnesses’ testimony at the hearing.

D. STATEMENT OF BASIC POSITION

Assessing whether the Levy County nuclear power plants are expected to be the most effective source of power is by far the single most difficult issue affecting a determination of need for the proposed units. A decision as to this fundamental question must reflect the relative confidence that can be placed in both the capital cost estimates for the project and the very long range estimates of benefits. In this case, confidence in the current project costs estimates is low. Progress Energy Florida’s (“PEF”) estimates of project capital costs already have nearly tripled from estimates in the initial announcement of the project. PEF also has been fairly candid that the current estimate, which is stunningly expensive as it stands now, almost certainly will see further revisions that are going to be higher.

The reason why Florida has not seen a new nuclear unit built since 1983, and the rest of the country similarly abandoned new nuclear as a capacity resource for several decades, is that the cost of building these power plants had become unacceptably high for utilities, consumers and regulators alike. Massive construction cost overruns at a substantial number of plants led to plant cancellations and retail rate shocks as completed units entered commercial service. A series of prudence audits of project construction costs that resulted in significant cost disallowances for project mis-management proved

to be the final nail convincing utilities and investors that nuclear power could not be considered a viable resource until project costs and regulatory risks could be effectively managed.

This historic experience in the commercial nuclear industry; current circumstances in terms of the limits on nuclear qualified materials, equipment and personnel; and PEF's selection of a new advanced reactor design for which there is neither construction or operating experience all indicate a high risk of significant schedule delays and cost overruns. Some of the recognized risk factors (e.g., the cost of steel) may be beyond the control of PEF, but the utility has direct control over a multitude of daily project management decisions that affect overall project cost and schedule. On the other hand, Florida consumers have absolutely no control over any element of the project cost and schedule.

The Florida statutory changes that encourage new nuclear power development do so in large measure by transferring utility / investor regulatory risk to consumers (i.e., once a need determination has been granted, certain issues can only be reviewed or challenged on a limited basis (or not at all)). This means that the Commission's need determination assumes critical importance in terms of safeguarding the interests of current and future ratepayers.

In making a determination of need pursuant to Section 413.509, Florida Statutes, the Commission is required to take into account any matters within its jurisdiction that are relevant to the proposed project into addition to the specific considerations listed in the statute (i.e., the need for base load capacity, improve the balance of fuel diversity, reduce Florida's dependence on fuel oil and natural gas, reduce air emissions compliance

costs, and contribute to the long-term stability and reliability of the electric grid). Given the statutory implications of a finding of need, the Commission must necessarily address the serious risk of dramatic cost overruns and PEF's incentives to effectively manage the project. These issues can only be address in this docket given the requirements of the statute and the limited nature of cost and prudence reviews under the Nuclear Cost Recovery Clause.

To safeguard consumer interests, PCS Phosphate urges the Commission to consider separately the need for Levy County Units 1 and 2. The Need Study shows that adding Levy Unit 2 in 2017 will produce a generating reserve margin of 33%, which clearly is excessive. More broadly, the Commission should not issue a determination of need that amounts to a blank check for project costs. The Commission should require, as a condition of any finding of need, that Progress Energy Florida implement aggressive contract and project management strategies to control project cost and schedule. In the alternative, the Commission should limit its determination based on PEF's current project cost estimate and require PEF to justify both the project cost increases and continuation of construction of either or both units.

E. STATEMENT ON SPECIFIC ISSUES

Issue 1: Is there a need for the proposed generating units, taking into account the need for electric system reliability and integrity, as this criterion is used in Section 403.519(4), Florida Statutes?

PCS Phosphate: No position at this time.

Issue 2: Is there a need for the proposed generating units, taking into account the need for fuel diversity, as this criterion is used in Section 403.519(4), Florida Statutes?

PCS Phosphate: No position at this time.

Issue 3: Is there a need for the proposed generating units, taking into account the need for base-load generating capacity, as this criterion is used in Section 403.519(4), Florida Statutes?

PCS Phosphate: No position at this time.

Issue 4: Is there a need for the proposed generating units, taking into account the need for adequate electricity at a reasonable cost, as this criterion is used in Section 403.519(4), Florida Statutes?

PCS Phosphate: No position at this time.

Issue 5: Are there any renewable energy sources and technologies or conservation measures taken by or reasonably available to Progress Energy Florida, Inc. which might mitigate the need for the proposed generating units?

PCS Phosphate: No position at this time.

Issue 6: Will the proposed generating units provide the most cost-effective source of power, as this criterion is used in Section 403.519(4), Florida Statutes?

PCS Phosphate: No position at this time.

Issue 7: Based on the resolution of the foregoing issues, should the Commission grant Progress Energy Florida, Inc.'s petition to determine the need for the proposed generating units?

PCS Phosphate: No.

Issue 8: Should this docket be closed?

PCS Phosphate: No position at this time.

ADDITIONAL ISSUES

Issue 9: Should the Commission separately assess the need for each of the proposed generating units using the criteria set forth in Section 403.519(4), Florida Statutes?

PCS Phosphate: Yes.

Issue 10: Should the Commission require, as a condition of granting a determination of need for the proposed units, that Progress Energy Florida, Inc. implement contractual and other strategies required to effectively manage the units' construction cost and schedule and the risks to consumers associated with cost overruns and project delays??

PCS Phosphate: Yes.

F. STIPULATED ISSUES

None.

G. PENDING MOTIONS

None.

H. PENDING REQUESTS OR CLAIMS FOR CONFIDENTIALITY

None.

Notice of Intent to Use Confidential Documents at Hearing:

PCS Phosphate does not intend to utilize confidential documents at hearing at this time. However, PCS Phosphate may identify certain documents based on the responses to its discovery requests received between now and the hearing date, or in response to PEF witnesses' testimony at the hearing.

I. OBJECTIONS TO QUALIFICATIONS OF WITNESS AS EXPERT

None at this time.

J. REQUIREMENTS OF ORDER ESTABLISHING PROCEDURE

There are no requirements of the *Procedural Order* with which PCS Phosphate cannot comply.

Respectfully submitted the 2nd day of May, 2008.

BRICKFIELD, BURCHETTE, RITTS & STONE, P.C.

s/ James W. Brew _____

James W. Brew

F. Alvin Taylor

Brickfield, Burchette, Ritts & Stone, P.C.

1025 Thomas Jefferson St., NW

Eighth Floor, West Tower

Washington, DC 20007

Tel: (202) 342-0800

Fax: (202) 342-0800

E-mail: jbrew@bbrslaw.com

Attorneys for

White Springs Agricultural Chemicals, Inc.

d/b/a/ PCS Phosphate – White Springs

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing has been furnished by electronic mail and/or U.S. Mail this 2nd day of May 2008 to the following:

PCS Administration (USA), Inc. Karin S. Torain Suite 400 Skokie Boulevard Northbrook, IL 60062	Charles Gauthier Department of Community Affairs Division of Community Planning 2555 Shumard Oak Boulevard Tallahassee, FL 32399-2100
J.R. Kelly/Stephen Burgess Office of Public Counsel c/o The Florida Legislature 111 W. Madison Street, Room 812 Tallahassee, FL 32399-1400	Michael P. Halpin Department of Environmental Protection Siting Coordination Office 2500 Blairstone Road, MS 48 Tallahassee, FL 32301
John T. Burnett/R. Alexander Glenn Progress Energy Service Company, LLC Post Office Box 14042 St. Petersburg, FL 33733-4042	Mr. Paul Lewis, Jr. Progress Energy Florida 106 East College Avenue, Suite 800 Tallahassee, FL 32301-7740
Bob Krasowski 1086 Michigan Ave. Naples, FL 34103	Southern Alliance for Clean Energy P.O. Box 1842 Knoxville, TN 37901
J. Michael Walls/Dianne M. Tripplett Carlton Fields Law Firm Post Office Box 3239 Tampa, FL 33601	Williams Law Firm E. Leon Jacobs, Jr. 1720 S Gadsden St. MS 14, Suite 202 Tallahassee, FL 32302-1101
Caroline Klancke / Jean Hartman / Katherine Fleming / Keino Young Florida Public Service Commission 2540 Shumard Oak Blvd. Tallahassee, FL 32399-0850	Sierra Club, Suwannee-St. John Group Robert W. Brinkman 915 NE 20th Avenue Gainesville, FL 32609-3850
Inglis Hydropower, LLC Dean Edwards P.O. Box 1565 Dover, FL 33527	

s/ James W. Brew _____