

Dorothy Menasco

From: Thomas Saporito [saporito3@gmail.com]
Sent: Saturday, November 01, 2008 8:56 AM
To: Filings@psc.state.fl.us
Cc: 'Young Law Firm'; 'AARP'; 'Brickfield Law Firm'; 'Federal Executive Agencies'; 'Florida Industrial Power Users Group'; 'Florida Power and Light Company'; 'Gulf Power Company'; Katherine Fleming; Mary Anne Helton; 'Messer Law Firm'; 'Progress Energy Florida, Inc.'; 'Progress Energy Service Company'; 'Tampa Electric Company'
Subject: Docket No. 080001-EI SEC Petition to Intervene
Attachments: 2008-11-01 SEC Petition to Intervene.pdf

Please accept for filing the attached PDF file entitled SEC Petition to Intervene. This document is a 9-page document regarding Docket No. 080001-EI and is filed on behalf of Thomas Saporito, SEC, and SEC's customer base.

Thank you.

Thomas Saporito, President
Saporito Energy Consultants
Post Office Box 8413
Jupiter, Florida 33468-8413
Voice: (561) 283-0613
Fax: (561) 952-4810
Email: saporito3@gmail.com
Web: SaporitoEnergyConsultants.com

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11/3/2008

DOCUMENT NUMBER-DATE
10326 NOV-3 08
FPSC-COMMISSION CLERK

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

**In Re: Nuclear Power Plant
Cost Recovery Clause**

**Docket No. 080001-EI
Date: November 1, 2008**

SEC 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, Saporito Energy Consultants ("SEC") and Thomas Saporito, through its undersigned president, file their 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:

Saporito Energy Consultants
Thomas Saporito
1030 Military Tr. #25
Jupiter, Florida 33458

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

petitioner should be served on:

Thomas Saporito
Post Office Box 8413
Jupiter, Florida 33468
Phone: (850) 421-9530
Email: saporito3@gmail.com

DOCUMENT NO. DATE

10326-08 11/3/08
FPSC - COMMISSION CLERK

4. Florida Power & Light Company ("FPL") is a regulated electric utility serving approximately 4.5 million retail customers throughout portions of the State of Florida.

5. Progress Energy Florida, Inc. ("PEF") is a regulated electric utility serving approximately 1.7 million retail customers throughout portions of the State of Florida.

6. SEC is a privately held entity dedicated to addressing the needs and interests of our environment by providing energy consulting services to individuals and to corporations. SEC's business plan includes all 50 states, the District of Columbia, Puerto Rico and the U.S. Virgin Islands. SEC's business plan represents the interests of residents in the State of Florida.

SEC's Customer Base Substantial Interests Affected

7. As stated above, SEC business plan represents the interests of residents in the State of Florida whom reside in either FPL's or PEF's service territories and take their electric service from these utilities. Therefore, many of SEC's customer base, including Thomas Saporito, will be substantially affected by any action the Commission takes in this docket, which will necessarily include retail rate increases in the form of Nuclear Power Plant Cost Recovery Clause payments if the utilities' requested relief is granted.

8. Statement of Affected Interests

The Commission will decide in this docket whether it should approve the utilities' construction cost expenditures related to the "Upgrade Projects" of their respective nuclear generating units. While purported to return substantial net benefits to their

customers, these projects have substantial costs that the utilities intend be borne by their customers, including Thomas Saporito, and many of SEC's Florida customer base. For example, FPL's March 3, 2008 petition seeks Commission approval of \$8,236,652, net jurisdictional, for construction cost expenditures incurred by FPL for the period ending December 2007. The total upgrade costs for the four FPL nuclear units are substantially greater, however; Order No. PSC-08-0021-FOF-EI, which approved the "need" to upgrade the units, the estimated nominal costs for the Turkey Point and St. Lucie units, not including construction carrying costs, are approximately \$750 million and \$651 million, respectively. The related transmission system upgrades are estimated to cost another \$45 million. PEF, on the other hand, seeks \$928,895 in carrying costs associated with its 2006 and 2007 uprate expenditures in its current petition. However, as reflected in its initial petition filed in Docket No. 060642-EI seeking recovery for the upgrade costs of its Crystal River No. 3 nuclear unit, PEF estimated that the total cost for the upgrade project, including anticipated transmission changes, is \$381.8 million. The costs currently sought for recovery by these two utilities, as well as the future amounts associated with their total projects, will affect the substantial interests of Thomas Saporito and SEC's customer base served by FPL and PEF by increasing their electric bills, thus reducing the monies they have to spend on their other needs.

9. SEC's customer base¹, taking retail electric service from FPL and 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. 2nd DCA 1981). As described above, the purpose of the proceedings in this docket is to evaluate FPL's and PEF's requests to recover from customers their respective costs and expenditures associated with the upgrade improvements to their nuclear generating units, to determine if those costs are reasonable and prudent and, thus, appropriate for recovery.

10. Disputed Issues of Material Fact

SEC and Thomas Saporito are not currently aware of any disputed issues of material fact but believe it reasonable to conclude that there may be disputed issues of material fact related to the reasonableness and prudence of the amounts sought for recovery by each utility as discovery progresses in each case. If questions as to reasonableness and prudence are raised, then the Commission may be required to resolve them through an evidentiary hearing pursuant to Chapter 120, Florida Statutes. Such potential disputed issues of material fact may include, but are not limited to, the following:

- Are the amounts sought by FPL in its instant petition reasonably and prudently incurred in the upgrade projects of its Turkey Point and St. Lucie nuclear units?
 - Should the amounts sought by FPL in its instant petition be reduced by

¹ The interest of SEC's president, Thomas Saporito, is in respect to electric service provided by FPL.

the amount of civil penalties incurred by FPL as a direct result of enforcement action taken against FPL by the U.S. Nuclear Regulatory Commission ("NRC")?

- Are the amounts sought by PEF in its instant petition reasonably and prudently incurred in the upgrade project of its Crystal River nuclear unit?
 - Should the amounts sought by PEF in its instant petition be reduced by the amount of civil penalties incurred by PEF as a direct result of enforcement action taken against PEF by the U.S. Nuclear Regulatory Commission ("NRC")?

11. Statement of Ultimate Facts Alleged

FPL and PEF must prove that all Nuclear Power Plant Cost Recovery Clause costs sought for recovery in this docket are necessary, reasonable and prudent, related to their respective upgrade projects and are, thus, appropriate for recovery from their respective ratepayers.

12. Statutes and Rules that Require the Relief Requested by SEC

Statutes and rules that require the relief requested by SEC and Thomas Saporito include, but are not limited to, Sections 120.569, 120.57(1), 366.04(1), 366.041, 366.05(1), 366.06(1) and (2), 366.07, and 403.519, Florida Statutes, and Rule 25-22.039 and Chapter 28-106, Florida Administrative Code.

WHEREFORE, SEC and Thomas Saporito request that this Commission grant them intervenor status in this docket as a full party on behalf of their customer base in Florida and on behalf of SEC's president Thomas Saporito as a customer of FPL in taking retail electric service from either Florida Power and Light Company or Progress

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Energy Florida, Inc.

Respectfully submitted,

/s/ Thomas Saporito
Thomas Saporito, President
Saporito Energy Consultants
Post Office Box 8413
Jupiter, Florida 39468-8413
Telephone: (561) 283-0613
Email: saporito3@gmail.com

CERTIFICATE OF SERVICE

I **HEREBY CERTIFY** that a true and correct copy of this petition has been served
this 1st day of November, 2008 on the following:

AARP (Twomey 08)

c/o Michael B. Twomey
Post Office Box 5256
Tallahassee, FL 32314-5256
Phone: 850-421-9530
Email: miketwomey@talstar.com

Phone: 850-283-6217
FAX: 850-283-6219
Email: shayla.mcneill@tyndall.af.mil

Ausley Law Firm (08)

Lee L. Willis/James D. Beasley
Post Office Box 391
Tallahassee, FL 32302
Phone: 850-224-9115
FAX: 222-7560

**Florida Industrial Power Users Group
(McWhirter08)**

John W. McWhirter, Jr.
c/o McWhirter Law Firm
P.O. Box 3350
Tampa, FL 33601-3350
Phone: 813-505-8055
FAX: 813-221-1854
Email: jmcwhirter@mac-law.com

Beggs & Lane Law Firm (08)

J. Stone/R. Badders/S.Griffin
P.O. Box 12950
Pensacola, FL 32591
Phone: 850-432-2451
FAX: 850-469-3331

Florida Power & Light Company

Mr. Wade Litchfield
215 South Monroe Street, Suite 810
Tallahassee, FL 32301-1859
Phone: (850) 521-3900
FAX: 521-3939
Email: wade_litchfield@fpl.com

Brickfield Law Firm (08)

James Brew
1025 Thomas Jefferson St. NW
West Tower, Eighth Floor
Washington, DC 20007
Phone: 202-342-0800
FAX: 202-342-0807
Email: jbrew@bbrslaw.com

**Florida Power & Light Company
(Juno08a)**

John T. Butler
700 Universe Boulevard
Juno Beach, FL 33408
Phone: 561-304-5639
FAX: 561-691-7135
Email: john_butler@fpl.com

Federal Executive Agencies (08)

Capt Sayla L. McNeill, Atty Karen S. Wh
c/o AFCESA/JACL-ULT
139 Barnes Drive, Suite 1
Tyndall AFB, FL 32403-5319

Florida Public Utilities Company (08)

Mehrdad Khojasteh
P.O. Box 3395
West Palm Beach, FL 33402-3395

Gulf Power Company

Ms. Susan D. Ritenour
One Energy Place
Pensacola, FL 32520-0780
Phone: (850) 444-6231
FAX: (850) 444-6026
Email: sdriteno@southernco.com

Messer Law Firm (08)

Norman H. Horton, Jr.
Post Office Box 15579
Tallahassee, FL 32317
Phone: 850-222-0720
FAX: 224-4359
Email: nhorton@lawfla.com

Office of Attorney General

Cecilia Bradley
The Capitol - PL01
Tallahassee, FL 32399-1050
Phone: 850-414-3300
FAX: 414-9650

Office of Public Counsel (08c)

J.R. Kelly/P. Christensen/S. Burgess/J
c/o The Florida Legislature
111 W. Madison Street, Room 812
Tallahassee, FL 32399-1400
Phone: 850-488-9330

Progress Energy Florida, Inc.

Mr. Paul Lewis, Jr.
106 East College Avenue, Suite 800
Tallahassee, FL 32301-7740
Phone: (850) 222-8738
FAX: 222-9768
Email: paul.lewisjr@pgnmail.com

**Progress Energy Service Company,
LLC (08)**

John T. Burnett
P.O. Box 14042
Saint Petersburg, FL 33733-4042
Phone: 727-820-5184
FAX: 727-820-5519
Email: john.burnett@pgnmail.com

Tampa Electric Company

Ms. Paula K. Brown
Regulatory Affairs
P. O. Box 111
Tampa, FL 33601-0111
Phone: (813) 228-1444
FAX: (813) 228-1770
Email: Regdept@tecoenergy.com

**White Springs Agricultural
Chemicals, Inc.**

P.O. Box 300
White Springs, FL 32096

Young Law Firm (08a)

R. Scheffel Wright/John LaVia
c/o Florida Retail Federation
225 South Adams Street, Suite 200
Tallahassee, FL 32301
Phone: 850-222-7206
FAX: 561-6834
Email: swright@yvlaw.net

Katherine E. Fleming, Senior Attorney
Office of the General Counsel
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399
Phone (850) 413-6218
Fax (850) 413-6219
keflemin@psc.state.fl.us

Mary Anne Helton
Deputy General Counsel

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Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0862
(850) 413-6096 (voice)
(850) 413-6250 (fax)
mhelton@psc.state.fl.us

/s/ Thomas Saporito
SEC President