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100009-EI

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Subject: FPSC Docket No. 100009 - PCS Phosphate's Prehearing Statement
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b. Docket No. 100009-EI, In Re: Nuclear Cost Recovery Clause

c. Filed on behalf of White Springs Agricultural Chemicals, Inc. d/b/a PCS Phosphate – White Springs

d. Total Pages = 8

e. PCS Phosphate's Prehearing Statement

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DOCKET NUMBER-DATE

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FPSC-COMMISSION CLERK

**BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION**

In re: Nuclear Cost Recovery Clause)
)
)

Docket No. 100009-EI

Filed: August 3, 2010

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

Pursuant to the Florida Public Service Commission's March 6, 2009 *Order Establishing Procedure*, Order No. PSC-09-0137-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

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B. WITNESSES

PCS Phosphate will sponsor no witnesses.

C. EXHIBITS

PCS Phosphate may offer exhibits based on the responses to discovery requests and Progress Energy Florida ("PEF") and other party witnesses' testimony at the hearing.

D. STATEMENT OF BASIC POSITION

PEF's decision to delay the expected completion of Levy Units 1 and 2 by five years or more, with the estimated total project cost rising by roughly \$5 billion, is surprising only as to its magnitude and the pace at which the project expectations stated in the Need case (Docket No. 080148-EI) have unraveled. PEF asserts that external events that have affected the licensing of the units (*i.e.* the Nuclear Regulatory Commission's refusal to grant a Limited Work Authorization for certain site preparation and pre-construction activities) necessitated not only a complete realignment of LNP's licensing, engineering, procurement and construction schedules, but also a reassessment of whether continued pursuit of the project was "in the best interest of the Company and its customers even if completion of the Levy nuclear power plants is still feasible." (Lyash). PEF further asserts that, based on these changed circumstances, it determined to continue pursuit of a construction and operating license ("COL") for LNP while curtailing other project expenditures to the extent feasible rather than either cancelling the project or continuing with engineering and procurement as originally planned (the 'full speed ahead' option). PCS Phosphate agrees that the changed project circumstances require a fundamental re-assessment of how or if PEF should proceed with LNP, but the options considered by PEF and the assessments provided in this docket by the utility are insufficient.

While possibilities can always be debated with respect to anticipated unit completion dates, natural gas prices in the very distant future, and the eventual outcome of national climate change legislation, based on the changes that are now known and the daunting risks that remain, building the units is not likely to be in the best interests of

PEF shareholders, PEF consumers or the Florida economy. This reality is most acutely evident in PEF's admission that it will be unable to secure joint owner participation until PEF resolves much of the enterprise risk associated with the project (a circumstance that might not be settled until unit start-up testing is completed as far as can be ascertained today). Moreover, it is a virtual certainty, given the expected rate impacts associated with the revised LNP cost and schedule, that the units are unaffordable for PEF consumers with PEF as the sole owner.

In this docket the Commission should consider whether it is reasonable, given the projected rate impacts, for PEF to continue its pursuit of LNP as the sole owner of the project. In the alternative, the Commission should direct PEF to address in its 2011 filing both OPC's additional scenario alternative and the public interest benefit in authorizing cost recovery for LNP expenditures other than for COL purposes until PEF has secured sufficient joint ownership participation to assure that rate impacts to PEF rate payers, both in nuclear cost recovery and in base rates, can be held to reasonable levels. Finally, given the mounting likelihood of project cancellation, PCS Phosphate agrees with OPC that the Commission should consider deferring cost recovery pending further analysis of the wisdom of continuing with the Levy Nuclear Project.

E. STATEMENT ON SPECIFIC ISSUES

With respect to the various issues presented in this proceeding, PCS Phosphate takes no position regarding the resolution of the issues with respect to Florida Power & Light. PCS Phosphate takes the following positions on the specific issues presented below as they pertain to Progress:

Legal Issues

ISSUE 2: Do PEF's activities related to Levy Units 1 & 2 qualify as "siting, design,

licensing, and construction” of a nuclear power plant as contemplated by Section 366.93, F.S.?

PCS Phosphate: PCS Phosphate agrees with and adopts the position of the OPC.

Legal & Policy Issues

ISSUE 3: Does the Commission have the authority to require a “risk sharing” mechanism that would provide an incentive for a utility to complete a project within an appropriate, established cost threshold? If so, what action, if any, should the Commission take?

PCS Phosphate: PCS Phosphate agrees with and adopts the position of the OPC.

Company Specific Issues – Progress Energy Florida

ISSUE 4: Should the Commission find that for the year 2009, PEF’s accounting and costs oversight controls were reasonable and prudent for the Levy Units 1 & 2 project and the Crystal River Unit 3 Uprate project?

PCS Phosphate: PCS Phosphate agrees with and adopts the position of the OPC.

ISSUE 5: Should the Commission find that for the year 2009, PEF’s project management, contracting, and oversight controls were reasonable and prudent for the Levy Units 1 & 2 project and the Crystal River Unit 3 Uprate project?

PCS Phosphate: PCS Phosphate agrees with and adopts the position of the OPC.

ISSUE 6: Should the Commission approve what PEF has submitted as its annual detailed analysis of the long-term feasibility of completing the Levy Units 1 & 2 project, as provided for in Rule 25-6.0423, F.A.C? If not, what action, if any, should the Commission take?

PCS Phosphate: PCS Phosphate agrees with and adopts the position of the OPC.

ISSUE 7: Is PEF's decision to continue pursuing a Combined Operating License from the Nuclear Regulatory Commission for Levy Units 1 & 2 reasonable? If not, what action, if any, should the Commission take?

PCS Phosphate: Based on expected nuclear cost recovery clause and base rate impacts, PEF has not established that continuing to pursue the COL is reasonable absent definitive agreements for joint ownership participation. In all other respect PCS Phosphate agrees with and adopts the position of the OPC.

ISSUE 8: Should the Commission approve what PEF has submitted as its annual detailed analysis of the long-term feasibility of completing the Crystal River Unit 3 Uprate project, as provided for in Rule 25-6.0423, F.A.C? If not, what action, if any, should the Commission take?

PCS Phosphate: No position.

ISSUE 9: What system and jurisdictional amounts should the Commission approve as PEF's final 2009 prudently incurred costs and final true-up amounts for the Crystal River Unit 3 Uprate project?

PCS Phosphate: No position.

ISSUE 10: What system and jurisdictional amounts should the Commission approve as PEF's reasonably estimated 2010 costs and estimated true-up amounts for the Crystal River Unit 3 Uprate project?

PCS Phosphate: No position.

ISSUE 11: What system and jurisdictional amounts should the Commission approve as PEF's reasonably projected 2011 costs for the Crystal River Unit 3 Uprate project?

PCS Phosphate: No position.

ISSUE 12: Are all the costs (included transmission line costs) for which PEF is seeking recovery eligible for cost recovery pursuant to Section 366.93, Florida Statutes?

PCS Phosphate: PCS Phosphate agrees with and adopts the position of the OPC.

ISSUE 13: What system and jurisdictional amounts should the Commission approve as PEF's final 2009 prudently incurred costs and final true-up amounts for the Levy Units 1 & 2 project?

PCS Phosphate: PCS Phosphate agrees with and adopts the position of the OPC.

ISSUE 14: What system and jurisdictional amounts should the Commission approve as reasonably estimated 2010 costs and estimated true-up amounts for PEF's Levy Units 1 & 2 project?

PCS Phosphate: PCS Phosphate agrees with and adopts the position of the OPC.

ISSUE 15: What system and jurisdictional amounts should the Commission approve as reasonably projected 2011 costs for PEF's Levy Units 1 & 2 project?

PCS Phosphate: PCS Phosphate agrees with and adopts the position of the OPC.

ISSUE 16: What is the total jurisdictional amount to be included in establishing PEF's 2011 Capacity Cost Recovery Clause factor?

PCS Phosphate: No position.

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 3rd day of August, 2010.

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

s/ James W. Brew

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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 3rd day of August 2010 to the following:

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s/ F. Alvin Taylor