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100437-EI

From: Al Taylor [Al.Taylor@bbrslaw.com]
Sent: Wednesday, December 08, 2010 4:01 PM
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Subject: FPSC Docket No 100437 - PCS Phosphate's Petition to Intervene
Attachments: PCS-2010 CR3 prudence intervention.pdf

a. Person responsible for filing

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b. Docket No. 100437 -EI, Examination of the outage and replacement fuel/power costs associated with the CR3 steam generator replacement project, by Progress Energy Florida, Inc.

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

d. Total Pages = 4

e. PCS Phosphate's Petition to Intervene

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**BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION**

**Examination of the outage and replacement)
fuel/power costs associated with the CR3)
steam generator replacement project, by)
Progress Energy Florida, Inc.)**

**Docket No. 100437-EI
Filed: December 8, 2010**

**PETITION TO INTERVENE OF
WHITE SPRINGS AGRICULTURAL CHEMICALS, INC.
d/b/a PCS PHOSPHATE – WHITE SPRINGS**

Pursuant to Sections 120.569 and 120.57(1), Florida Statutes and Rules 25-22.039 and 28-106.205, Florida Administrative Code, White Springs Agricultural Chemicals, Inc. d/b/a PCS Phosphate – White Springs (“PCS Phosphate”), through its undersigned attorney, files its Petition to Intervene. In support thereof, PCS Phosphate 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:

White Springs Agricultural Chemicals, Inc.
d/b/a PCS Phosphate – White Springs
15843 SE 78th Street, P.O. Box 300
White Springs, Florida 32096

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

should be served on:

James W. Brew
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4. PCS Phosphate is a manufacturer of fertilizer products with plants and operations located within Progress Energy Florida's ("PEF") electric service territory.¹ PCS Phosphate receives service under various PEF rate schedules.

5. Statement of Affected Interests. In this docket, the Commission will evaluate the prudence of PEF's decisions and actions underlying the extended outage of the Crystal River Unit 3 ("CR3") as well as the ramifications of the resulting fuel and purchase power replacement costs associated with the extended CR3 outage. The prudence determinations for these issues will substantially affect PCS Phosphate by directly impacting its cost of purchasing power, thereby affecting its production and operating costs, overall industry competitiveness, and level of sustainable employment in the region.

Because of the implications of PEF's potentially imprudent actions and decisions concerning CR3 and its actions to procure replacement power in response to the extended CR3 outages, PCS Phosphate anticipates taking an active role in this proceeding.

6. Disputed Issues of Material Fact. Disputed issues of material fact include, but are not limited to, the following:

- (a) Whether PEF's actions with respect to the design, construction, and maintenance of the concrete of the walls of the CR3 containment building were reasonable and prudent;
- (b) Whether PEF's actions and resultant costs to repair the CR3 concrete delamination issues were reasonable and prudent; and
- (c) Whether the costs for replacement fuel and purchased power due to the extended CR3 outage were reasonable and prudent.

¹ The White Springs phosphate mining facilities are on approximately 100,000 acres (160 square miles) located in Hamilton County, Florida.

7. Disputed Legal Issues. PCS Phosphate anticipates that disputed legal issues will be identified in the course of these proceedings.

8. Statement of Ultimate Facts Alleged. Alleged ultimate facts include, but are not limited to, the following:

- (a) PEF has the burden to prove that all costs for which the utility seeks recovery were and will be, reasonably and prudently incurred.

PCS Phosphate anticipates that additional alleged ultimate facts will be identified in the course of these proceedings.

WHEREFORE, White Springs Agricultural Chemicals, Inc. d/b/a PCS Phosphate – White Springs respectfully requests that the Commission enter an order allowing it to intervene as a full party in this docket.

Respectfully submitted,

s/ James W. Brew

James W. Brew

F. Alvin Taylor

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*Attorneys for White Springs Agricultural
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Springs*

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing Petition to Intervene has been furnished by electronic mail and/or U.S. Mail this 8th day of December 2010 to the following:

J.R. Kelly/Charles Rehwinkel
Office of Public Counsel
c/o The Florida Legislature
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Vicki G. Kaufman/Jon C. Moyle, Jr.
Florida Industrial Power Users Group c/o
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118 North Gadsden Street
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Mr. Paul Lewis, Jr.
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