

Hopping Green & Sams

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May 24, 2011

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COMMISSION
CLERK

BY HAND DELIVERY

Ann Cole
Director, Office of the Commission Clerk
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

Re: Docket No. 110007-EI
Progress Energy Florida, Inc.'s Petition to Modify Scope of Existing
Environmental Program

Dear Ms. Cole:

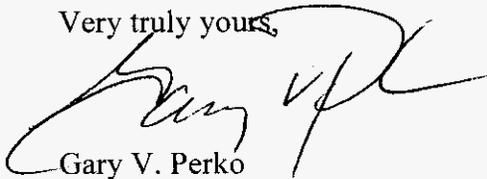
On behalf of Progress Energy Florida, Inc. ("PEF"), enclosed for filing in the above docket are the original and fifteen copies of PEF's Petition to Modify Scope of Existing Environmental Program.

By copy of this letter, the enclosed documents have been furnished to the parties on the certificate of service attached to the Petition.

Please stamp and return the enclosed extra copy of this filing. If you have any questions regarding this filing, please give me a call at 425-2359.

COM	_____
APA	_____
ECR	12 _____
GCL	_____
RAD	_____
SSC	_____
ADM	_____ GVP/dg
OPC	_____ Enclosures
CLK	_____

Very truly yours,



Gary V. Perko

DOCUMENT NUMBER - DATE

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FPSC-COMMISSION CLERK

BEFORE THE PUBLIC SERVICE COMMISSION

In re: Environmental Cost Recovery Clause

DOCKET NO. 110007-EI

FILED: May 24, 2011

**PROGRESS ENERGY FLORIDA, INC.'S PETITION TO MODIFY
SCOPE OF EXISTING ENVIRONMENTAL PROGRAM**

Progress Energy Florida, Inc. ("PEF" or "Company"), pursuant to Section 366.8255, Florida Statutes, and Florida Public Service Commission Order Nos. PSC-94-0044-FOF-EI and PSC-99-2513-FOF-EI, hereby petitions the Commission to modify the scope of its previously approved Integrated Clean Air Compliance Program to encompass additional activities such that the costs associated with such activities prudently incurred after the filing of this Petition may be recovered through the Environmental Cost Recovery Clause ("ECRC"). In support, PEF states:

1. Petitioner. PEF is a public utility subject to the regulatory jurisdiction of the Commission under Chapter 366, Florida Statutes. The Company's principal offices are located at 299 First Avenue North, St. Petersburg, Florida.
2. Service. All notices, pleadings and other communications required to be served on the petitioner should be directed to:

Gary V. Perko
Hopping Green & Sams, P.A.
119 S. Monroe St., Suite 300
P.O. Box 6526 (32314)
Tallahassee, FL 32301

John T. Burnett
Dianne M. Triplett
Progress Energy Services Co., LLC
299 First Avenue North, PEF-151
St. Petersburg, FL 33701

3. Cost Recovery Eligibility. As further discussed below, the U.S. Environmental Protection Agency ("EPA") recently issued proposed rules that would establish new standards for air emissions from coal- and oil-fired electric generating units. As a result of the new regulations, PEF will incur costs for new environmental compliance activities related to its

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FPSC-COMMISSION CLERK

previously approved Integrated Clean Air Compliance Program. As detailed below, the new compliance activities meet the criteria for cost recovery established by the Commission in Order No. PSC-94-0044-FOF-EI in that:

- (a) all expenditures will be prudently incurred after April 13, 1993;
- (b) the activities are legally required to comply with a governmentally imposed environmental regulation that was created, became effective, or whose effect was triggered after the company's last test year upon which rates are based; and
- (c) none of the expenditures are being recovered through some other cost recovery mechanism or through base rates.

The information provided below for each program satisfies the minimum filing requirements established in Part VI of Order No. PSC-99-2513-FOF-EI.

4. New Rules Affecting PEF's Approved Integrated Clean Air Compliance Plan. In the 2007 ECRC Docket, the Commission approved PEF's Integrated Clean Air Compliance Plan (Plan D) as a reasonable and prudent means to comply with the requirements of the Clean Air Interstate Rule (CAIR), the Clean Air Mercury Rule (CAMR), the Clean Air Visibility Rule (CAVR), and related regulatory requirements. Order No. PSC-07-0922-FOF-EI, at 8 (Nov. 16, 2007). In each subsequent ECRC docket, the Commission approved PEF's annual review of the Integrated Clean Air Compliance Plan, concluding that the Plan remains the most cost-effective alternative for achieving and maintaining compliance with the applicable air quality control and monitoring regulatory requirements. See Order No. PSC-10-0683-FOF-EI, at 6-7 (Nov. 15, 2010); Order No. PSC-09-0759-FOF-EI, at 18 (Nov. 18, 2009); Order No. 08-0775-FOF-EI, at 11 (Nov. 24, 2008).

As the Commission is aware, in February 2008, the U.S Circuit Court of Appeals for the District of Columbia vacated the CAMR regulation and rejected EPA's delisting of coal-fired electric generating units from the list of emission sources that are subject to Section 112 of the Clean Air Act. See Order No. PSC-09-0759-FOF-EI, at pp. 15, 18 (Nov. 18, 2009). As a result, in lieu of CAMR, EPA must adopt National Emission Standards for Hazardous Air Pollutants (NESHAPs) that define Maximum Available Control Technology (MACT) for control of hazardous air pollutant emissions from coal-fired electric generators. Id.

EPA issued its proposed rule to replace CAMR on March 16, 2011, with publication following in the *Federal Register* on May 3, 2011. 76 Fed. Reg. 24976 (May 3, 2011) PEF and other interested persons have 60 days following publication (i.e., July 5, 2011) to submit comments on the proposed rule to EPA. In accordance with a consent decree, the EPA Administrator must sign a final rule by November 16, 2011. The Clean Air Act generally requires affected facilities to comply with the final rule within three years of adoption, although one-year compliance extensions can be granted on a case-by-case basis. See 42 U.S.C. § 7412(i)(3).

Adoption of the new NESHAP rule will require PEF to modify its Integrated Clean Air Compliance Plan to ensure compliance with new emission standards. EPA's proposed standards apply to all existing coal- and oil-fired electric generators, including PEF's Crystal River Units 1, 2, 4, and 5, and Anclote Units 1 and 2, and Suwannee Units, 1, 2, and 3. The standards would place stringent limits on emissions of: (1) metals, including mercury, arsenic, chromium and nickel; (2) acid gases, including hydrogen chloride and hydrogen fluoride; and (3) particulate matter. Potential compliance options include installation of emission controls, fuel switches, efficiency improvements and unit retirements.

In addition to the proposed NESHAP rule, electric generating units are the subject of other ongoing rulemakings addressing the interstate transport of emissions contributing to ozone and particulate matter air quality issues, coal combustion wastes and cooling water control requirements. Harmonizing overlapping regulations and timelines could make a substantial difference in lowering costs to the customer. Accordingly, to the extent possible, PEF will take into account the combined effects of these upcoming rules in developing cost-effective alternatives for inclusion in a revised *Integrated Clean Air Compliance Plan* to be submitted for Commission review at a later date.

5. New Environmental Compliance Activities. The new requirements of the proposed NESHAP and other ongoing rulemakings present significant challenges to the utility industry, requiring substantial analysis and planning to develop and implement cost-effective compliance measures. At this time, PEF needs to contract with outside consultants to help the Company assess the proposed rule, prepare comments to EPA, and develop compliance strategies within the aggressive regulatory time-frames. In 2011, PEF will conduct diagnostic stack testing in order to help inform development of comments on the proposed rule and the development of compliance strategies. Specifically, PEF will perform emissions testing at Crystal River Units 4 and 5 in June, 2011, to assess emissions of mercury, HCl and condensable particulate matter at three load points while testing hydrated lime injection and various operating conditions. Upon issuance of the final rule, PEF expects to incur additional costs in 2012 for detailed engineering and other analyses necessary to develop compliance strategies for inclusion in an updated *Integrated Clean Air Compliance Plan*.

As the Commission has previously recognized, “[a]n effective way to control the costs of complying with a particular environmental law or regulation can be participation in the

regulatory and legal processes involved in defining compliance.” Order No. PSC-08-0775-FOF-EI, at 7-8 (Nov. 24, 2008). Based on that understanding, the Commission has repeatedly approved ECRC recovery of costs incurred by utilities for technical analyses and other activities associated with participation in development of regulatory compliance measures. See e.g., id. (costs for participating in rulemaking and legal proceedings related to EPA’s Section 316(b) Phase II rules); Order No. PSC-09-0759-FOF-EI (Nov. 18, 2009) (costs for emissions monitoring and modeling associating with development of TMDLs and parallel air rulemaking); Order No. PSC-05-1251-FOF-EI (Dec. 22, 2005) (costs associated with technical analysis and legal challenges to Clean Air Interstate Rule); and Order No. PSC-00-0476-PAA-EI (Mar. 6, 2000) (costs associated with participating in ozone modeling study). Accordingly, PEF’s costs associated with development of the NESHAP compliance measures described above are recoverable under the ECRC.

6. No Base Rates Recovery of Program Costs. PEF seeks approval to recover incremental costs associated with development of the NESHAP compliance measures. None of the costs for which PEF seeks recovery were included in the MFRs that PEF filed in its last ratemaking proceeding in Docket No. 090079-EI. Therefore, the costs are not recovered in PEF’s base rates.

7. Cost Estimates. PEF expects to incur approximately \$85,000 in costs for NESHAP-related activities for the remainder of 2011 and approximately \$300,000 for calendar year 2012.

8. Prudence of Expenditures. In order to ensure that the costs incurred for these activities are prudent and reasonable, PEF will identify qualified contractors and, when appropriate, will use competitive bidding when appropriate.

9. No Change in Current ECRC Factors. PEF does not seek to change the ECRC factors currently in effect for 2011. The Company proposes to include in its estimated true-up filing for 2011 all program costs incurred subsequent to the filing of this petition through the end of 2011. The Company will include program costs projected for 2012 and beyond in the appropriate projection filings. PEF expects that all of these costs will be subject to audit by the Commission and that the appropriate allocation of program costs to rate classes will be addressed in connection with those subsequent filings.

10. No Material Facts in Dispute. PEF is not aware of any dispute regarding any of the material facts contained in this petition. The information provided in this petition demonstrates that the programs for which approval is requested meets the requirements of Section 366.8255 and applicable Commission orders for recovery through the ECRC.

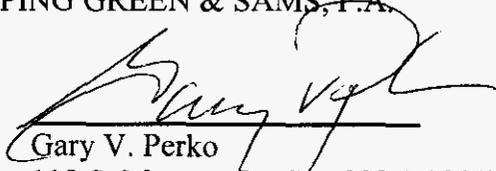
WHEREFORE, Progress Energy Florida, Inc., requests that the Commission approve for recovery through the ECRC all costs reasonably and prudently incurred after the date of this petition in connection with development of the NESHAP compliance measures described more fully above.

RESPECTFULLY SUBMITTED this 24th day of May, 2011.

John T. Burnett
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Dianne M. Triplett
Associate General Counsel
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Attorneys for PROGRESS ENERGY FLORIDA, INC.

AFFIDAVIT

STATE OF FLORIDA)
)
COUNTY OF PINELLAS)

The undersigned Patricia Q. West, first being duly sworn, deposes and says:

1. I am employed as Manager of Environmental Services / Power Generation Florida for Progress Energy Florida, Inc.

2. I have reviewed the above Petition of Progress Energy Florida, Inc. to Modify the Scope of an Existing Environmental Program and the facts stated in that petition are true and correct to the best of my knowledge, information and belief.

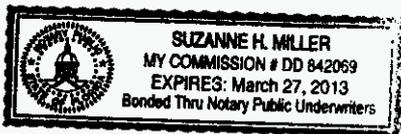
Patricia Q. West
Patricia Q. West

Sworn to and subscribed before me by Patricia Q. West, who:

is personally known to me

presented Florida Drivers License Number _____ as identification

this 19th day of May, 2011.



Suzanne H. Miller
Notary Public

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished via hand-delivery (*) or regular U.S. mail this 24th day of May, 2011.

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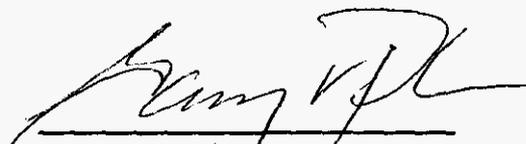
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