

# Hopping Green & Sams

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December 31, 2013

**VIA E-FILING**

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

**Re: Petition of Duke Energy Florida, Inc., to Modify Scope of Existing  
Environmental Program, Docket No. \_\_\_\_\_**

**Dear Ms. Cole:**

**On behalf of Duke Energy Florida, Inc. ("DEF"), I have enclosed for DEF's Petition  
to Modify Scope of Existing Environmental Program.**

**Thank you for your assistance in this matter. If you have any questions regarding  
this filing, please call me at the number provided above.**

Very truly yours,

HOPPING GREEN & SAMS, PA.\

By:   
Gary V. Perko

GVP/mee  
Enclosure  
cc: Dianne Triplett, Esq.

**BEFORE THE PUBLIC SERVICE COMMISSION**

In re: Petition of Duke Energy Florida, Inc., to  
Modify Scope of Existing Environmental  
Compliance Program.

DOCKET NO. \_\_\_\_\_

FILED: December 31, 2013

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

Duke Energy Florida, Inc. (“DEF” 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 compliance activities at DEF’s Crystal River Units 1 and 2, 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, DEF states:

**Introduction**

1. DEF 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. All notices, pleadings and other communications required to be served on the petitioner should be directed to:

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

John T. Burnett, Esquire  
Dianne M. Triplett, Esquire  
Duke Energy Florida, Inc.  
299 First Avenue North  
St. Petersburg, FL 33701  
john.burnett@duke-energy.com  
dianne.triplett@duke-energy.com

3. As further discussed below, the U.S. Environmental Protection Agency (“EPA”) and Florida Department of Environmental Protection (“FDEP”) recently established new air emissions standards and limits for DEF’s Crystal River Units 1 and 2 (“CR 1 and 2”). As a result, DEF will incur costs for new environmental compliance activities at CR 1 and 2 as part of its 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.

#### **New Environmental Regulations Affecting CR 1 and 2**

4. In the 2007 ECRC Docket, the Commission approved DEF’s Integrated Clean Air Compliance Plan 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 DEF’s annual review of the Integrated Clean Air Compliance Plan. See Order No. PSC-13-0606-FOF-EI, at 9-10 (Nov. 19, 2013); Order No. PSC-12-0613-FOF-EI, at 16-17 (Nov. 16, 2012); Order No. PSC-11-0553-FOF-EI, at 13-14 (Dec. 7, 2011); 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).

5. 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 was required to adopt new standards for control of hazardous air pollutant emissions from coal-fired electric generators. Id.

6. EPA issued its final rule to replace CAMR on December 21, 2011, with publication in the *Federal Register* following on February 16, 2012. See 77 Fed. Reg. 9304 (Feb. 26, 2012). The final rule establishes new Mercury and Air Toxics Standards ("MATS") for emissions of various metals and acid gases from both coal and oil-fired EGUs, including CR 1 and 2. The Clean Air Act generally provides a 3-year time frame to comply with MATS (i.e., April 16, 2015), although the permitting agency (FDEP) has the authority to add one year.

7. In addition to MATS requirements, CR 1 and 2 are subject to Best Available Retrofit Technology ("BART") and Reasonable Further Progress ("Beyond BART") requirements under CAVR. In accordance with BART requirements, FDEP has established new particulate and opacity permit limits for CR 1 and 2 which have been incorporated into a revised Regional Haze State Implementation Plan ("SIP"). In order to address Reasonable Further Progress ("Beyond BART") requirements which are scheduled to take effect in 2018, the revised SIP further requires DEF to install Flue Gas Desulfurization ("FGD") and Selective Catalytic Reduction ("SCR") on CR 1 and 2 by 2018 or cease burning coal in the units on or before the end of 2020. EPA approved the revised SIP in August 2013. See 78 Fed Reg. 53250 (Aug. 29, 2013). Although third parties recently petitioned for review of EPA's approval in the

U.S. Court of Appeals for the Eleventh Circuit, the approval has not been stayed and remains in effect pending the outcome of the litigation.

### **New Environmental Compliance Activities for Crystal River Units 1 and 2**

8. As discussed in DEF's 2013 Annual Review of its Integrated Clean Air Compliance Plan, DEF has determined that retirement of CR 1 and 2, rather than installation of expensive pollution controls such as FGD and SCR at a cost of over \$1 billion, is the most cost-effective MATS compliance strategy for the units over the long-term. However, as further discussed in the Annual Review, DEF has continued to evaluate alternate fuel options that would allow DEF to continue operating CR 1 and 2 in compliance with MATS (and CAVR) requirements, with limited new investment, until replacement generation resources can be completed to meet system needs.

9. Specifically, DEF compared the quantitative and qualitative merits of pursuing the following alternatives:

- **Alternative 1:** Retire CR 1 and 2 in April 2016 before the MATS compliance deadline (assuming one year extension) and meet system requirements with purchased power and/or new resources in a manner that the grid would support.
- **Alternative 2:** Establish a MATS compliance plan for CR South and configure the units to operate in compliance through mid-2018, and establish a resource plan to provide for replacement combined cycle generation in that timeframe. This alternative includes a competitive solicitation for combined cycle energy and capacity starting in 2018, identification of additional resources needed in 2016 and beyond, and a transmission plan that supports the required resources.

The results of the quantitative economic analysis indicate that the lifecycle projected system cost (CPVRR) for the option of limited continued operation of CR 1 and 2 through mid-2018 (Alternate 2) was \$307 million lower overall than the system CPVRR for the option retiring the units in mid-2016 (Alternate 1), i.e. a projected system savings of \$307 million in 2013 dollars.

Furthermore, the qualitative planning assessment concluded that the limited continued operations alternative has a significant positive impact on system reliability if operations of CR 1 and 2 are continued until replacement generation can be added near Crystal River, or until transmission projects can be completed to address grid concerns.

10. Based on the results of those evaluations and tests of alternate coals at CR 1 and 2, DEF has determined that use of alternate coals with installation of less expensive pollution controls, at a total project cost of approximately \$28 million, would provide a cost-effective means for DEF to continue operating CR 1 and 2 in compliance with MATS (and CAVR) requirements for a limited time until replacement generation can be constructed. The new pollution controls include dry sorbent injection (“DSI”) for control of acid gas emissions, activated carbon injection (“ACI”) for control of mercury emissions, and changes to the electrostatic precipitators (“ESPs”) for control of particulate emissions. The planned DSI and ACI systems will be relatively small to meet the emission reduction levels envisioned, and will be set up to operate intermittently or continuously, depending on the needs of the facility. In addition to the above project costs, DEF expects to incur annual O&M costs of approximately \$2 million while the new pollution controls remain in operation.

11. In order to ensure that the costs incurred for these activities are prudent and reasonable, DEF will identify qualified contractors and, when appropriate, will use competitive bidding.

#### **No Base Rates Recovery**

12. None of the costs for which DEF seeks recovery were included in the MFRs that DEF filed in its last ratemaking proceeding in Docket No. 090079-EI. Therefore, the costs are not recovered in DEF’s base rates.

**No Change in Current ECRC Factors**

13. DEF does not seek to change the ECRC factors established for 2014. The Company proposes to include in its estimated/actual true-up filing for 2014 all program costs incurred subsequent to the filing of this petition through the end of 2014. The Company will include program costs projected for 2015 and beyond in the appropriate projection filings. DEF 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 filings.

**No Material Facts in Dispute**

14. DEF 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.

**Request for Relief**

WHEREFORE, Duke 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 the MATS compliance measures described more fully above.

RESPECTFULLY SUBMITTED this 21<sup>st</sup> day of December, 2013.

John T. Burnett  
Dianne M. Triplett  
Duke Energy Florida, Inc.  
299 First Avenue North (33701)  
St. Petersburg, FL 33701

By:

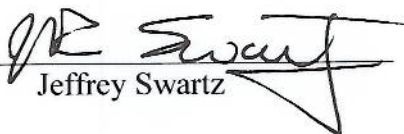
  
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**AFFIDAVIT**

STATE OF FLORIDA     )  
  )  
COUNTY OF PINELLAS    )

The undersigned Jeffrey Swartz, first being duly sworn, deposes and says:

1.     I am employed as VP Florida for Duke Energy Florida, Inc.
2.     I have reviewed the above Petition of Duke Energy Florida, Inc. to Modify Scope of Environmental Programs and the facts stated in that petition are true and correct to the best of my knowledge, information and belief.

  
Jeffrey Swartz

Sworn to and subscribed before me by Jeffrey Swartz, who:

is personally known to me

presented Florida Drivers License Number 563243663 as identification  
102-0

this 27 day of Dec, 2013.



  
Notary Public