

Diamond Williams

From: George Cavros [george@cavros-law.com]
Sent: Wednesday, June 15, 2011 12:38 PM
To: Filings@psc.state.fl.us
Cc: Keino Young; John Burnett; cecilia.bradley@myfloridalegal.com; Charles Rehwinkel; sayler.erik@leg.state.fl.us; JR Kelly; Jay Brew; Alvin Taylor; Vicki Kaufman; John Moyle
Subject: SACE's Petition to Intervene in Docket No. 100437-EI
Attachments: SACE Petition to Intervene - DN 100437.pdf

Dear Commission Clerk,

In accordance with the electronic filing procedures of the Florida Public Service Commission, the following filing is made:

A.

George Cavros, Esq.
 120 E. Oakland Park Blvd, Ste. 105
 Fort Lauderdale , FL 33334
 Telephone: 954.563.0074
 Facsimile: 866.924.2824

Email: george@cavros-law.com
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B. This filing is made in 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. This document is filed on behalf of Southern Alliance for Clean Energy (SACE).

D. The document is 6 total pages.

E. The attached document is SACE's Petition to Intervene in Docket No. 100437-EI.

Sincerely,

George Cavros

George Cavros, Esq.  
 120 E. Oakland Park Blvd, Ste. 105  
 Fort Lauderdale, FL 33334  
 954.563.0074 (office)  
 866.924.2824 (fax number)

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6/15/2011

DOCUMENT NUMBER-DATE

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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: June 15, 2011

**SOUTHERN ALLIANCE FOR CLEAN ENERGY'S  
PETITION TO INTERVENE**

Pursuant to sections 120.569, 120.57, Florida Statutes, and Rules 25-22.039, 28-106.201 and 28-106.205, Florida Administrative Code, Southern Alliance for Clean Energy (SACE), through its undersigned counsel, files its Petition to Intervene in this docket and in support thereof states:

1. Name and address of agency affected by this petition is:

Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, Florida 32399-0850

2. Name and address of Petitioner is:

Southern Alliance for Clean Energy  
P.O. Box 1842  
Knoxville, Tennessee 37901  
Telephone: 865-637-6055

3. All pleadings, motions, orders and other documents directed to the Petitioner should be served on:

George Cavros, Esq.  
120 E. Oakland Park Blvd, Ste. 105  
Fort Lauderdale, FL 33334  
Telephone: 954.563.0074  
Facsimile: 866.924.2824  
Email: george@cavros-law.com

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4. Petitioner received notice of this docket by a review of the Public Service Commission's (Commission) website.

5. Statement of Substantial Interests. SACE is a non-profit corporation organized under the laws of the State of Tennessee and authorized to conduct operations in the State of Florida. The mission of SACE is to promote responsible energy choices that solve global warming problems and ensure clean, safe and healthy communities throughout the Southeast, including Florida. SACE has staff working on this mission in Florida and the organization has a substantial membership base in Progress Energy Florida Inc.'s (PEF) service territory dedicated to the promotion of responsible energy choices.

6. In pursuit of responsible energy choices, SACE has presented experts and provided testimony in numerous forums in Florida, including, before the Florida State Legislature, the Department of Environmental Protection, and this Commission. SACE places a priority on evaluating all opportunities for displacing non-renewable electricity generation, such as coal-fired and nuclear power plants with cost-effective energy efficiency programs and renewable energy generation. SACE has been granted party status in numerous dockets before the Commission, including PEF resource planning and prudency dockets, such as: : *In re: Commission Review of Numeric Conservation Goals; In re: Petition for Approval of Demand-side Management Plan of Progress Energy Florida, Inc.;* and the *Nuclear Cost Recovery Clause* docket .

7. In order No. PSC-10-0632-PCO-EI, the Commission established a docket to review the actions at PEF's Crystal River 3 nuclear plant (CR3) which have resulted in an extended outage and the need for PEF to purchase replacement power due to the outage. The Order states:

[T]he docket will be to enable the Commission and all interested parties to review facts and information related to the Crystal River Unit 3 (CR3) steam generator replacement project and the subsequent delamination that was discovered during CR3's Refueling Outage 16. PEF asserts that in this new docket the Commission will be able to evaluate the prudence and reasonableness of PEF's actions concerning the delamination. The new docket will also provide the Commission with the ability to review the prudence of PEF's resulting fuel and purchase power replacement costs associated with the extended CR3 outage.

8. In this case, the Commission will review the facts surrounding the continuing CR3 outage and PEF's past and ongoing actions in response to the outage to determine the reasonableness and prudence of such actions. The determination by the Commission of reasonableness and prudence of PEF's actions in this docket will invariably affect a myriad of PEF resource planning decisions that includes: fuel-type utilization; energy efficiency implementation; renewable energy generation and procurement; and coal plant retirements as PEF strives to meet demand formerly met by the CR3 unit. This determination will affect SACE members' substantial interests by affecting PEF's current and future resource decisions. SACE members have a substantial interest in ensuring those resource decisions are made in a responsible manner consistent with the organization's mission. Therefore, SACE members' substantial interest will be affected in this docket.

9. In this case, the Commission will also review the prudence of PEF's resulting fuel and purchase power costs associated with the extended CR3 outage. The costs that may flow from such a review will affect SACE members' substantial interest by significantly affecting their cost of service. SACE members view the risk of these increases with serious concern and wish to vigorously examine the basis of such charges. Therefore, as customers of PEF, SACE members' substantial interest will be affected in this docket.

10. The interests of members of SACE are the type of interests this proceeding is designed to protect. *Ameristeel Corp. v. Clark*, 691 So.2d 473 (Fla. 1997); *Agrico Chemical Co. v. Department of Environmental Regulation*, 406 So.2d 478 (Fla. 2d DCA 1981), reh. denied, 415 So.2d 1359 (Fla. 1982); *Florida Home Builders Ass 'n v. Department of Labor and Employment Security*, 412 So.2d 351, 353-54 (Fla. 1982). The purpose of this case is to evaluate PEF's actions and costs related to the CR3 extended outage to determine if they are appropriate. Therefore, the purpose of this case coincides with the substantial interests of SACE to ensure that the decision that flows from this proceeding ensures responsible energy choices now and into the future and to ensure that fuel and purchase power costs paid by SACE members in PEF's service territory are just and reasonable.

11. The subject matter of this docket is within the scope of interest and activities of SACE, and the relief requested is the type of relief appropriate for SACE to receive on behalf of its members. The rights and interests of members of SACE cannot be adequately represented by any other party in this docket, and intervention will not unduly delay or prejudice the rights of other parties.

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

- a) Whether PEF's actions related 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 related to the repair of the CR3 concrete delamination was reasonable and prudent;
- c) Whether it is reasonable and prudent for PEF to continue repairs to the aging CR3 unit;

- d) Whether PEF has met demand, formerly met by the CR3 unit, in the most cost-effective fashion;
- e) Whether the costs for replacement fuel and purchased power due to the extended CR3 outage were reasonable and prudent.

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

- a) PEF has the burden to prove that its actions related to the CR3 outage are reasonable and prudent;
- b) PEF has the burden to prove that costs related to the CR3 outage for which PEF seeks recovery were and will be prudently incurred.

14. Rules and statutes justifying relief. The rules and statutes that entitle SACE to intervene and participate in this case include, but are not limited to, the following:

- a) Section 120.569, Florida Statute;
- b) Section 120.57, Florida Statute;
- c) Section 366.04(1), Florida Statute;
- d) Rule 28-106.201, Florida Administrative Code; and
- e) Rule 28-106.205, Florida Administrative Code

15. Relief. SACE respectfully requests that it be permitted to intervene as a full party in this docket.

**WHEREFORE**, SACE respectfully request that the Commission enter an order granting it leave to intervene and participate in this docket as a full party.

s/ George Cavros  
George Cavros, Esq.  
120 E. Oakland Park Blvd, Ste. 105  
Fort Lauderdale, FL 33334  
Telephone: 954.563.0074  
Facsimile: 866.924.2824  
Email: george@cavros-law.com

Attorney for Southern Alliance for  
Clean Energy

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the foregoing was served by electronic mail and US Mail on this 15<sup>th</sup> day of June, 2011, to the following:

Keino Young  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, Florida 32399-0850  
kyoung@psc.state.fl.us

John Burnett  
Progress Energy Florida, Inc.  
P.O. Box 14042  
St. Petersburg, Florida 33733-4042  
John.burnett@pgnmail.com

Cecilia Bradley  
Office of Attorney General  
The Capitol, PL01  
Tallahassee, Florida 32399-1050  
Cecilia.bradley@myfloridalegal.com

J.R. Kelly, Charles Rewinkel, Erik Sayler  
Office of Public Counsel  
111 W. Madison Street, Room 812  
Tallahassee, Florida 32399-1400  
Kelly.jr@leg.state.fl.us  
Rehwinkel.charles@leg.state.fl.us  
Sayler.erik@leg.state.fl.us

James W. Brew, Esq., F. Alvin Taylor, Esq  
Brickfield, Burchette, Ritts & Stone, P.C.  
1025 Thomas Jefferson Street, NW, Eighth Floor, West Tower  
Washington, DC 20007-5201  
jbrew@bbrslaw.com  
ataylor@bbrslaw.com

Vicki Gordon Kaufman  
Jon C. Moyle, Jr.  
Keefe Anchors Gordon & Moyle, PA  
118 North Gadsden Street  
Tallahassee, Florida 32301  
vkaufman@kagmlaw.com  
jmoyle@kagmlaw.com

s/ George Cavros  
George Cavros