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Subject: FPSC Docket No 090009 PCS Phosphate Prehearing Statement
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b. Docket No. 090009-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 = 12

e. PCS Phosphate's Prehearing Statement

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FPSC-COMMISSION CLERK

**BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION**

In re: Nuclear Cost Recovery Clause)
_____)

Docket No. 090009-EI
Filed: August 10, 2009

**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 call the following witness:

Peter A. Bradford – Mr. Bradford will testify regarding all issues concerning Progress Energy Florida ("Progress" or "PEF"), including specifically its failure to demonstrate the continued feasibility of the Levy County Nuclear Units, the elements that the Commission should consider in determining the on-going feasibility of the Levy units, and the impact of changed circumstances on the feasibility of the Levy project.

Mr. Bradford also will testify regarding the need for the Commission to examine the prudence and reasonableness of costs incurred and decisions made by Progress in the engineering, design, construction and procurement associated with the Levy County Nuclear Units.

C. EXHIBITS

Through Mr. Bradford, PCS Phosphate will sponsor (i) Exhibit No. PAB-1 – Resume of Peter A. Bradford; (ii) Exhibit No. PAB-2 – Natural Gas Prices Comparison and (iii) Exhibit No. PAB-3 – NRC AP1000 Schedule Revision Correspondence. PCS Phosphate may have additional exhibits based on the responses to its discovery requests received between now and the end of the discovery period, and PEF witnesses’ testimony at the hearing.

D. STATEMENT OF BASIC POSITION

PEF has not submitted the detailed on-going feasibility analysis for completion of the Levy Nuclear Project (“LNP”) that is required by Commission Rule 25-6.0423 and the Commission’s Determination of Need Order for LNP. Also, material changes in circumstance have occurred, including the project delays PEF announced in its May 1, 2009 filing, that require a thorough re-assessment of the commercial feasibility of the LNP units. The Commission should direct PEF to prepare and file complete and updated LNP project cost, schedule and feasibility assessments for review in a separate proceeding. Capacity clause recovery of estimated LNP costs that are recoverable under the nuclear cost recovery rule should be suspended pending Commission approval of LNP feasibility in that separate proceeding. PCS Phosphate accepts and supports the Office of Public Counsel findings and recommendations related to LNP prudence issues.

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:

Policy/Legal Issues

ISSUE 1: Should over or under collections in the Capacity Cost Recovery Clause be included in the calculation of recoverable costs in the NCRC?

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

ISSUE 2: When a utility elects to defer recovery of some or all of the costs that the Commission approves for recovery through the Capacity Cost Recovery Clause, what carrying charge should accrue on the deferred balance?

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

ISSUE 3: Should FPL and PEF be permitted to record in rate base the incremental difference between Allowance for Funds Used During Construction (AFUDC) permitted by Section 366.93, F.S. and their respective most currently approved AFUDC, for recovery when the nuclear plant enter commercial operation?

PCS Phosphate: No position at this time.

Project Management and Oversight Controls

ISSUE 4: Should the Commission find that for the years 2006 and 2007, FPL's accounting and costs oversight controls were reasonable and prudent for Turkey Point Units 6 & 7 project?

PCS Phosphate: No position.

ISSUE 5: Should the Commission find that for the years 2006 and 2007, FPL's project management, contracting, and oversight controls were reasonable and prudent for Turkey Point Units 6 & 7 project?

PCS Phosphate: No position.

ISSUE 6: Should the Commission find that for the year 2008, FPL's accounting and costs oversight controls were reasonable and prudent for Turkey Point Units 6 & 7 project and the Extended Power Uprate project?

PCS Phosphate: No position.

ISSUE 7: Should the Commission find that for the year 2008, FPL's project management, contracting, and oversight controls were reasonable and prudent for Turkey Point Units 6 & 7 project and the Extended Power Uprate project?

PCS Phosphate: No position.

ISSUE 7A: Is FPL's decision in 2008 to pursue an alternative to an Engineering Procurement Construction (EPC) contract for the Turkey Point 6 & 7 project prudent and reasonable?

PCS Phosphate: No position.

FPL's Project Feasibility

ISSUE 8: Should the Commission approve what FPL has submitted as its annual detailed analyses of the long-term feasibility of completing the Turkey Point 6 & 7 project, as provided for in Rule 25-6.0423, F.A.C?

PCS Phosphate: No position.

ISSUE 8A: If the Commission does not approve FPL's long term feasibility analyses of Turkey Point 6 & 7, what further action, if any, should the Commission take?

PCS Phosphate: No position.

ISSUE 9: Should the Commission approve what FPL has submitted as its annual detailed analyses of the long-term feasibility of completing the EPU project, as provided for in Rule 25-6.0423, F.A.C?

PCS Phosphate: No position.

FPL's Extended Power Uprate Project

ISSUE 10: What system and jurisdictional amounts should the Commission approve as FPL's final 2008 prudently incurred costs for the Extended Power Uprate project?

PCS Phosphate: No position.

ISSUE 11: Are FPL's 2008 actual, 2009 actual/estimated and 2010 projected EPU project costs separate and apart from the nuclear costs that would have been necessary to provide safe and reliable service had there been no EPU project?

PCS Phosphate: No position.

ISSUE 12: What system and jurisdictional amounts should the Commission approve as FPL's reasonable actual/estimated 2009 costs for the Extended Power Uprate project?

PCS Phosphate: No position.

ISSUE 13: What system and jurisdictional amounts should the Commission approve as FPL's reasonably projected 2010 costs for the Extended Power Uprate project?

PCS Phosphate: No position.

FPL's Turkey Point Units 6 & 7 Project

ISSUE 14: What system and jurisdictional amounts should the Commission approve as FPL's final 2006 and 2007 prudently incurred costs for the Turkey Point Units 6 & 7 project?

PCS Phosphate: No position.

ISSUE 15: What system and jurisdictional amounts should the Commission approve as FPL's final 2008 prudently incurred costs for the Turkey Point Units 6 & 7 project?

PCS Phosphate: No position.

ISSUE 16: What system and jurisdictional amounts should the Commission approve as reasonably estimated 2009 costs for FPL's Turkey Point Units 6 & 7 project?

PCS Phosphate: No position.

ISSUE 17: What system and jurisdictional amounts should the Commission approve as reasonably projected 2010 costs for FPL's Turkey Point Units 6 & 7 project?

PCS Phosphate: No position.

FPL's 2010 Capacity Cost Recovery Clause Amount

ISSUE 18: What is the total jurisdictional amount to be included in establishing FPL's 2010 Capacity Cost Recovery Clause factor?

PCS Phosphate: No position.

PEF Project Management and Oversight

ISSUE 19: Should the Commission find that for the years 2006 and 2007, PEF's accounting and costs oversight controls were reasonable and prudent for Levy Units 1 & 2 project?

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

ISSUE 20: Should the Commission find that for the years 2006 and 2007, PEF's project management, contracting, and oversight controls were reasonable and prudent for Levy Units 1 & 2 project?

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

ISSUE 21: Should the Commission find that for the year 2008, PEF's project management, contracting, and oversight controls were reasonable and prudent for 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 21A: Was it reasonable and prudent for PEF to execute its EPC contract at the end of 2008? If the commission finds that this action was not reasonable and prudent, what actions, if any, should the Commission take?

PCS Phosphate: PCS Phosphate agrees with and adopts the position of the OPC. Moreover, the Commission should conduct a detailed examination of the EPC contract's execution in view of the known and reasonably expected ramifications of an unfavorable NRC reaction to the Limited Work Authorization request.

ISSUE 22: Should the Commission find that for the year 2008, PEF's accounting and costs oversight controls were reasonable and prudent for 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.

PEF's Project Feasibility

ISSUE 23: Should the Commission approve what PEF has submitted as its annual detailed analysis of the long-term feasibility of continuing construction and completing the Levy Units 1 & 2 project, as provided for in Rule 25-6.0423, F.A.C., and Order No. PSC-08-0518-FOF-EI (Determination of Need Order)?

PCS Phosphate: No. Progress has not submitted the detailed feasibility analysis that is required. It appears that PEF cannot provide updated project cost and schedule assessments until it has completed its own re-assessment of the project and negotiated possible revisions to the EPC contract executed in December 2008. Consequently, PEF is not likely to produce the required feasibility analysis in this docket. The Commission should find that the materials filed by PEF do not satisfy the above-noted requirements.

ISSUE 23A: If the Commission does not approve PEF's long term feasibility analysis of Levy Units 1 & 2, what further action, if any, should the Commission take?

PCS Phosphate: The Commission should require PEF to prepare and file a complete

and detailed update of LNP cost, schedule and on-going feasibility as soon as practicable once PEF has settled on a revised project path and concluded any re-negotiation required to complete the analyses required. In the interim, the Commission should suspend Levy Project nuclear cost recoveries in 2010, other than actual costs through 2008 that have been deemed prudent, until PEF completes its assessment of project schedule options, negotiates whatever changes the utility deems necessary to its EPC agreement with Westinghouse/ SSW, files a detailed updated feasibility assessment, demonstrates the continuing cost-effectiveness of each Levy unit compared to alternative supply and demand resources (subject to further hearings), and receives findings of on-going feasibility and reasonableness from the Commission.

ISSUE 23B: What further steps, if any, should the Commission require PEF to take regarding the Levy Units 1 & 2?

PCS Phosphate: See Issue 23A. Also, the Commission should consider establishing a separate proceeding to assess both prudence and on-going feasibility issues related to the LNP project delay. The Commission should also consider alternative regulatory oversight methods and mechanisms to protect PEF consumers from escalating project costs.

ISSUE 24: 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?

PCS Phosphate: No position.

PEF's Crystal River Unit 3 Uprate Project

ISSUE 25: What system and jurisdictional amounts should the Commission approve as PEF's final 2008 prudently incurred costs for the Crystal River Unit 3 Uprate project?

PCS Phosphate: No position.

ISSUE 26: What system and jurisdictional amounts should the Commission approve as PEF's reasonably estimated 2009 costs for the Crystal River Unit 3 Uprate project?

PCS Phosphate: No position.

ISSUE 27: What system and jurisdictional amounts should the Commission approve as PEF's reasonably projected 2010 costs for the Crystal River Unit 3 Uprate project?

PCS Phosphate: No position.

PEF's Levy Units 1 & 2 Project

ISSUE 28: What system and jurisdictional amounts should the Commission approve as PEF's final 2006 and 2007 prudently incurred costs for the Levy Units 1 & 2 project as filed in Docket No. 080009-EI?

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

ISSUE 29: What system and jurisdictional amounts should the Commission approve as PEF's final 2008 prudently incurred costs for the Levy Units 1 & 2 project?

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

ISSUE 30: What system and jurisdictional amounts should the Commission approve as reasonably estimated 2009 costs for PEF's Levy Units 1 & 2 project?

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

ISSUE 31: What system and jurisdictional amounts should the Commission approve as reasonably projected 2010 costs for PEF's Levy Units 1 & 2 project?

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

PEF's 2010 Capacity Cost Recovery Clause Amount

ISSUE 32: Should the Commission approve PEF's alternative cost recovery proposal, as set forth in PEF's Petition and supporting Testimony, as to recovery of NCRC costs?

PCS Phosphate: Yes, to the extent Progress' actual 2008 costs are deemed prudent and its actual / estimated 2009 costs are deemed reasonable.

ISSUE 32A: If the answer to Issue 32 is yes, what is the total jurisdictional amount to be included in establishing PEF's 2010 Capacity Cost Recovery Clause factor?

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

ISSUE 32B: If the answer to Issue 32 is no, what is the total jurisdictional amount to be included in establishing PEF's 2010 Capacity Cost Recovery Clause factor?

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

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 10th day of August, 2009.

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

s/James W. Brew _____

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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 10th day of August 2009 to the following:

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