

**Marguerite McLean**

090009-EI

**From:** ljacobs50@comcast.net  
**Sent:** Wednesday, October 21, 2009 11:54 AM  
**To:** Filings@psc.state.fl.us  
**Cc:** Keino Young; Bryan Anderson; Lisa Bennett; jbrew@bbrslaw.com; Jennifer Brubaker; john burnett; jessica cano; janusman@att.net; alex glenn; vkaufman@kagmlaw.com; paul lewisjr; shayla mcneill; jmcwhirter@mac-law.com; RMiller@pcsphosphate.com; jmoyle@kagmlaw.com; Charles Rehwinkel; Lisa Stright; ataylor@bbrslaw.com; Arlene Tibbetts  
**Subject:** Re: Revised Filing Docket No. 090009-EI SACE Request to Take Official Recognition  
**Attachments:** SACE Request to Take Official Recognition FINAL 10-19-09.pdf

## a. Person Responsible for Filing

E. Leon Jacobs, Jr.  
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- b. Docket No. 090009-EI, In Re: Nuclear Plant Cost Recovery Clause  
c. Filed on behalf of the Southern Alliance for Clean Energy, Inc. (SACE)  
d. Total Pages = 14  
e. Request to Take Official Recognition, Exhibit A and Exhibit B. ( Revised to include all exhibits)

10/21/2009

DOCUMENT NUMBER-DATE

10746 OCT 21 8

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MOSES WILIAMS, ESQ.

E. LEON JACOBS, JR., ESQ.

October 19, 2009

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

RE: Docket No. 090009-EI  
In Re: Nuclear Cost Recovery.

Dear Ms. Cole:

On behalf of the Southern Alliance for Clean Energy, Inc., I have enclosed for filing a Request to Take Official Recognition of Action by the Nuclear Regulatory Commission, consisting of seven pages, along with Exhibits A and B. I thank you for your attention to this matter.

Sincerely,

*/s/ E. Leon Jacobs, Jr.*

E. Leon Jacobs, Jr.  
Attorney for Intervenor

Enclosures

DOCUMENT NUMBER-DATE  
10746 OCT 21 8  
FPSC-COMMISSION CLERK

**BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

**In re: Nuclear Plant Cost** )  
**Recovery Clause** )  
 )  
 )  
\_\_\_\_\_ )

**DOCKET NO. 090009-EI**  
**FILED: OCTOBER 19, 2009**

**THE SOUTHERN ALLIANCE FOR CLEAN ENERGY'S  
REQUEST FOR OFFICIAL RECOGNITION OF ACTION BY  
THE NUCLEAR REGULATORY COMMISSION**

The Southern Alliance for Clean Energy ("SACE"), by and through its undersigned counsel, and pursuant to section 90.202(5), Florida Statutes, and section 120.569(2)(i), Florida Statutes, respectfully requests that the Florida Public Service Commission ("Commission") take official recognition of the action of the Nuclear Regulatory Commission ("NRC") concluding its review of an integral component of the AP1000 reactor. The NRC's communication is attached at Exhibit A.

1. On October 16, 2009, the Commission voted on a number of issues relating to the recovery of costs by Florida Power & Light's ("FPL") related to the development of new Units 6 and 7 at Turkey Point, and recovery of costs by Progress Energy of Florida's ("PEF") related to development of new Units 1 and 2 in Levy County. Pursuant to Rule 25-6.0423, Florida Administrative Code, the Commission voted that, for purposes of the current year recovery, the showing of long-term feasibility was sufficient as made by each company regarding their respective units. However, in its deliberations prior to the vote, the Commission expressed clear interest in matters which might affect the future feasibility of the units, and instructed that all pertinent and relevant issues affecting the progress and status of the plants be presented and

considered in the context of this docket. The Commission directed that future filings address these concerns.

2. On October 15, 2009, the NRC issued a determination regarding its certification of a key component of the AP1000 nuclear reactor (see press release in Exhibit B). The AP1000 is planned by FPL and PEF for installation at Turkey Point Units 6 and 7, and Levy County Units 1 and 2. The NRC determined that there are deficiencies in the design of a vital component known as the "shield building," and concluded that "the proposed design of the shield building will require modifications in some specific areas to ensure its ability to perform its safety function under design basis loading conditions..." Hurricanes represent one such load condition. The NRC communicated to the AP1000's manufacturer, Westinghouse, the following:

..... Progress on the NRC staff's review of the shield building will require that Westinghouse provide modifications to the design and testing that demonstrate the capability of the building to perform its intended safety function under design basis loads. In addition to the issues described above, the NRC staff identified several other issues that need to be addressed; these issues are discussed in the enclosure to this letter. Based on the above, the NRC considers its review of the shield building, as proposed, to be complete.....

3. Thus, the NRC has suspended its regulatory approval of this component of the AP1000, which fundamentally affects the NRC's certification of the AP1000 as a whole. The NRC specifically indicated that all Combined License applications which reference the AP1000 are affected, and that any impact on the completion of such applications is tied directly to the resolution of the issues raised in its letter of October 15th.

4. The result of this action is that the Combined License applications of FPL for Turkey Point Units 6 and 7, and of PEF for Levy County Units 1 and 2 are substantially affected,

and likely suspended pending the outcome of the shield building review, and the AP1000 certification in general.

**WHEREFORE**, SACE respectfully requests that this Commission take official recognition of the NRC's determination of the status of the certification of the AP1000 reactor design.

RESPECTFULLY SUBMITTED this 19th day of October, 2009.

**/s/ E. Leon Jacobs, Jr.**

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**CERTIFICATE OF SERVICE**

**Docket No. 090009**

I HEREBY CERTIFY that a true and correct copy of the foregoing REQUEST TO TAKE OFFICIAL RECOGNITION has been furnished by electronic mail (e-mail) and/or U.S. Mail this the 19<sup>th</sup> day of October, 2009.

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/s/E. Leon Jacobs, Jr.  
Counsel for SACE



~~PROPRIETARY INFORMATION~~

October 15, 2009

Mr. Robert Sisk, Manager  
AP1000 Licensing and Customer Interface  
Nuclear Power Plants  
Westinghouse Electric Company  
P.O. Box 355  
Pittsburgh, PA 15230-0355

Dear Mr. Sisk:

By letter dated August 31, 2009, Westinghouse submitted its design methodology report for the AP1000 shield building. The U.S. Nuclear Regulatory Commission (NRC) has completed its review of that report. Based on that report and the body of technical information reviewed to date, the NRC has determined that the proposed design of the shield building will require modifications in some specific areas to ensure its ability to perform its safety function under design basis loading conditions and to support a finding that it will meet applicable regulations (i.e., 10 CFR 50.55a and 10 CFR Part 50, Appendix A (GDC 1 and 2)).

Specifically, the design of the steel and concrete composite structural module (SC module) must demonstrate the ability to function as a unit during design basis events; the design of the connection of the SC module to the reinforced concrete wall sections of the shield building must demonstrate the ability to function during design basis events; the design of the shield building tension ring girder, which anchors the shield building roof to the wall, must be supported by either a confirmation test or a validated (or benchmarked) analysis method.

Progress on the NRC staff's review of the shield building will require that Westinghouse provide modifications to the design and testing that demonstrate the capability of the building to perform its intended safety function under design basis loads. In addition to the issues described above, the NRC staff identified several other issues that need to be addressed; these issues are discussed in the enclosure to this letter.

Based on the above, the NRC considers its review of the shield building, as proposed, to be complete. The NRC will continue to support the resolution of the remaining issues on the AP1000 amendment application while the issues associated with the shield building are being addressed. The impact on the review schedule for the design certification amendment will be established after discussion with Westinghouse about its plans to address NRC's determination.

Pursuant to 10 CFR 2.390, the NRC has determined that the enclosure may contain proprietary information or other categories of information that should be withheld from public disclosure. The NRC will delay placing this document in the public document room for a period of 30 days from the date of this letter to provide Westinghouse with the opportunity to comment on information in the enclosure that should be withheld from public disclosure. If Westinghouse believes that any information in the enclosure should be withheld from public disclosure, please

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R. Sisk

-2-

identify such information line by line and define the basis pursuant to the criteria of 10 CFR 2.390. Based on Westinghouse's response, sensitive information will be redacted from the version that will be made publically available.

Schedule impacts to the review schedules for the Combined License applications that reference the AP1000 amendment application will be addressed once the schedule for the design certification amendment is better understood.

Please note that the letter and the attached enclosure are proprietary. When the letter is detached from the enclosure, the letter becomes non-proprietary.

Sincerely,

*/RA/*

David B. Matthews, Director  
Division of New Reactor Licensing  
Office of New Reactors

Enclosure: As stated.  
Docket No. 52-006

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R. Sisk

-2-

identify such information line by line and define the basis pursuant to the criteria of 10 CFR 2.390. Based on your response, sensitive information will be redacted from the version that will be made publically available.

Schedule impacts to the review schedules for the Combined License applications that reference the AP1000 amendment application will be addressed once the schedule for the design certification amendment is better understood.

Please note that the letter and the attached enclosure are proprietary. When the letter is detached from the enclosure, the letter becomes non-proprietary.

Sincerely,

*/RA/*

David B. Matthews, Director  
Division of New Reactor Licensing  
Office of New Reactors

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Enclosure: As stated.  
Docket No. 52-006

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(Revised 10/01/2009)

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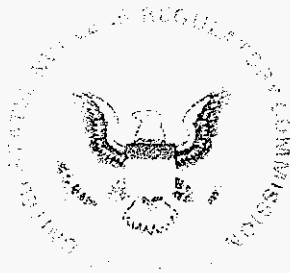
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# NRC NEWS

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No. 09-173

October 15, 2009

## NRC INFORMS WESTINGHOUSE OF SAFETY ISSUES WITH AP1000 SHIELD BUILDING

The Nuclear Regulatory Commission staff has informed Westinghouse that the company has not demonstrated that certain structural components of the revised AP1000 shield building can withstand design basis loads. An NRC letter to Westinghouse states that progress on the shield building review will require the company to provide modifications to the design, as well as testing that demonstrates the building will perform its intended safety function under design basis loads. The staff will continue its review of the remainder of the AP1000 design certification amendment application.

As the name implies, the AP1000 shield building would protect the reactor's primary containment from severe weather and other events. The building's other functions would include providing a radiation barrier during normal operation and supporting an emergency cooling water tank.

"We've been talking to Westinghouse regularly about the shield building since October 2008, and we've consistently laid out our questions to the company," said Michael Johnson, director of the NRC's Office of New Reactors. "This is a situation where fundamental engineering standards will have to be met before we can begin determining whether the shield building meets the agency's requirements."

The impact on the overall AP1000 certification review schedule will be established after the staff and Westinghouse discuss the company's plans to address the NRC's conclusions regarding the shield building design. The impact on related review schedules for Combined License applications referencing the AP1000 will be addressed once the design certification review schedule is better understood.

The staff's letter to Westinghouse will be available on the NRC's electronic documents database, ADAMS, by entering ML092320205 at this address:

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