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Subject: FPSC Docket 110009-EI - PCS Phosphate's Answer to PEF's Motion for Deferral
Attachments: PCS-Response to deferral motion FINAL.pdf

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b. Docket No. 110009-EI, In Re: Nuclear Cost Recovery Clause

c. Filed on behalf of White Springs Agricultural Chemicals, Inc. d/b/a PCS Phosphate – White Springs

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e. PCS Phosphate's Answer to Progress Energy Florida's Motion for Deferral

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7/11/2011

**BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION**

In re: Nuclear Cost Recovery Clause)	Docket No. 110009-EI
)	Filed: July 8, 2011
)	

**ANSWER OF WHITE SPRINGS AGRICULTURAL CHEMICALS, INC.
d/b/a PCS PHOSPHATE – WHITE SPRINGS TO
PROGRESS ENERGY FLORIDA’S
MOTION FOR DEFERRAL**

Pursuant to Rule 28-106.204, Florida Administrative Code, and the Commission’s July 7, 2011 Notice of Petition for Emergency Variance, White Springs Agricultural Chemicals, Inc. d/b/a PCS Phosphate – White Springs (“PCS Phosphate”), through its undersigned attorneys, files this Answer to Progress Energy Florida, Inc.’s (“PEF’s”) July 1, 2011 Motion for Deferral (“Deferral Motion”) of the feasibility and reasonableness determination of the costs for the Crystal River Unit 3 (“CR3”) extended power uprate project (“CR3 Uprate”).

In the Deferral Motion, PEF asks the Commission to defer (i) approval of the long-term feasibility of the CR3 Uprate and (ii) the determination of the reasonableness of PEF’s actual/estimated 2011 and projected 2012 construction expenditures for the CR3 Uprate. Deferral Motion at 1. PEF seeks deferral of these issues to provide itself sufficient time to update its feasibility analysis and project costs following the most recent delamination event involving the concrete containment at the CR3 unit which the utility disclosed in March 2011. *Id.* at 5, ¶7. PEF states that “[s]pends in 2011 and 2012 will still be tracked in actual costs and accrue a carrying cost at the appropriate rate until recovered in rates after the Commission and all parties have had the opportunity to review PEF’s updated feasibility analysis and cost

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projections.” *Id.* PEF maintains that the Commission has the authority to defer the determinations required by the nuclear cost recovery statute when circumstances warrant such deferral. *Id.*, ¶8

PEF’s Deferral Motion is premised upon an inescapable truth and a transparent fallacy that are two sides of the same coin. Both relate to the fact that committing another dime of ratepayer money to the CR3 Uprate project cannot be justified unless and until:

1. PEF can demonstrate, based on detailed analysis that is not yet available, that its plan to demolish and rebuild much of the CR3 concrete containment structure makes economic sense;
2. PEF convinces the NRC that the contemplated repair plan will meet all applicable licensing and safety parameters; and
3. PEF convinces the NRC that it should issue a 20-year license extension for the CR3 unit in its refurbished condition.

The inescapable truth is that PEF does not possess sufficient information today with respect to these critical pre-conditions to demonstrate that continued pursuit of the uprate is in the public interest or satisfies the requirements of the nuclear cost recovery rule. The transparent fallacy lies in PEF’s claim that the most recent concrete delamination of the CR3 containment, caused by PEF’s attempt to repair the previous delamination, does not affect either the EPU project feasibility or schedule. Deferral Motion at 2, ¶1.

The motion itself is effectively a PEF admission that the PEF testimony filed on May 2, 2011, in this docket with respect to the CR3 Uprate has been rendered largely moot. Consequently, although PCS Phosphate does not object to the PEF motion to defer Commission consideration of these issues in the 2011 NCRC docket, with the qualification noted below, PCS Phosphate does not accept the facts stated or characterizations contained in the utility’s motion.

In the 2010 NCRC docket, PEF maintained that it was pursuing a defined, but slipping, schedule toward completion of the prior delamination repair and an expected return of the unit to commercial service in the near future. In last year's fuel docket, the decision to allow recovery of disputed replacement fuel costs in excess of insurance recoveries was colored by PEF's assurances that CR3's return to service was imminent (i.e., would occur by the end of the 2010, later amended to the end of the first quarter of 2011). *See, e.g.* Order No. PSC-10-0734-FOF-EI, Docket No. 100001-EI at 4 (Dec. 20, 2010) ("PEF expects CR3 to return to service in the fourth quarter of 2010.") All of these assurances are now gone, and PEF, its customers and the Commission instead are enveloped in a massive fog of uncertainties. For this reason, the feasibility and prudence issues relative to the CR3 Uprate cannot be assessed in the context of this year's NCRC docket, and thus PCS Phosphate does not object to the motion for deferral.

With respect to CR3 Uprate costs to be recovered in 2012, PCS Phosphate does not contest PEF's request for carrying charges related to historic 2009 and 2010 spending, but firmly opposes recovery of any 2011 or 2012 actual or estimated spending, including carrying charges, on the CR3 Uprate project. *See* Deferral Motion at 5, ¶7. Given the representations contained in the Deferral Motion, including Exhibit No. 1 thereto, PCS Phosphate understands that PEF is proposing to recover only carrying costs associated with uprate expenditures incurred prior to January 1, 2011, and that consideration of all rate recovery and carrying costs associated with the actual/estimated 2011 and project 2012 expenditures will be deferred to a subsequent docket if the Deferral Motion is granted. Based on this understanding, PCS Phosphate does not oppose PEF's Deferral Motion.

WHEREFORE, subject to the above qualifications, PCS Phosphate does not oppose PEF's Deferral Motion.

Respectfully submitted,

s/ James W. Brew

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CERTIFICATE OF SERVICE

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