

Eric Fryson

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Sent: Friday, May 25, 2012 4:12 PM
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Subject: Algenol Biofuels Inc.'s Petition to Intervene - Electronic Filing: Docket 120015-EI
Attachments: Petition to Intervene of Algenol Biofuels - 05-25-2012[F].pdf

A. Person Responsible for Electronic Filing:

Quang J. Ha, General Counsel
Algenol Biofuels Inc.
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B. Docket: 120015 – EI
In Re: Petition for Increase in Rates by Florida Power and & Light Company

C. Document being filed on behalf of Algenol Biofuels Inc.

D. There are a total of 12 pages in the attached document

E. The document attached for electronic filing is ALGENOL BIOFUELS INC.'s PETITION TO INTERVENE in the above referenced docket.

Thank you,

Patrick Ahlm

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5/25/2012

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FPSC-COMMISSION CLERK

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

**In re: Petition for Increase in Rates by
Florida Power & Light Company.**

Docket No. 120015-EI

Filed May 25, 2012

ALGENOL BIOFUELS INC.'s PETITION TO INTERVENE

Pursuant to Chapters 120 and 366, Florida Statutes, and Rules 25-22.039, 28-106.201 and 28-106.205 of the Florida Administrative Code, Algenol Biofuels Inc. (Algenol) hereby petitions the Florida Public Service Commission (Commission) to intervene in the above captioned docket regarding the rates and charges proposed to be charged by Florida Power & Light Company (FPL). FPL is a public utility that is subject to the Commission's jurisdiction over the rates and service of public utilities in Florida.

In support of this Petition to Intervene, Algenol states as follows:

1. The name and address of Algenol is:

Algenol Biofuels Inc.
28100 Bonita Grande Drive, Suite 200
Bonita Springs, FL 24135
Phone: (239) 498-2000
Fax: (239) 948-4996

2. All pleadings, orders and correspondence should be directed to each of Algenol's representatives as follows:

Paul Woods
Quang Ha
Patrick Ahlm
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3. The agency affected by this Petition to Intervene is:

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

4. **About Algenol:**

Algenol is a Florida-based, global, industrial biotechnology company that is commercializing its patented algae technology platform for the production of ethanol and green chemicals. Our algae-based technology, under the trademark of Direct to Ethanol[®], targets the production of fuel grade ethanol for less than \$1.00 per gallon using sunlight, carbon dioxide and saltwater and commercial production of 6,000 gallons of ethanol per acre-year. Not requiring farmland or food crops are other great benefits offered by Direct to Ethanol[®] technology. Florida has abundant sunshine, non-productive land and saltwater, and is home to many large carbon dioxide emitters, including FPL power plants. The low production costs even assumes paying the carbon dioxide emitter for the carbon

dioxide that would otherwise be released into the atmosphere. In fact, carbon dioxide is the major feedstock of Direct to Ethanol[®] technology.

5. Algenol has corporate offices in Bonita Springs, Florida and a research and development complex in Ft. Myers, Florida, built with assistance from Lee County, Florida. This R&D complex houses approximately 40,000 square feet of world-class molecular biology, culture collection, physiology, aquaculture, analytical chemistry and engineering laboratories. The complex also contains an outdoor research facility, or a Process Development Unit (PDU), which itself contains an additional 9,500-square foot aquaculture laboratory, two large inoculation greenhouses and 3 acres of outdoor research area. In October 2011, Algenol broke ground on a Department of Energy-sponsored Pilot-scale Integrated Biorefinery in Fort Myers on 36 acres adjacent to the PDU. The Integrated Biorefinery will provide pilot-scale demonstration of a fully integrated commercial facility and provide the operational knowledge necessary to demonstrate commercial viability and pursue commercial projects. The Integrated Biorefinery will have the capacity to produce 100,000 gallons of ethanol per year and will ultimately contain 3,000 photobioreactors on 17 “wetted” acres, along with supporting processes and infrastructure collectively providing a microcosm of a commercial facility. All of Algenol’s US facilities, including the Integrated Biorefinery, consume vast amounts of electricity provided by FPL, which in the aggregate represents a significant cost to Algenol.

6. In addition to our current facilities, Algenol is vetting opportunities for commercial production facilities, which require electricity to operate and carbon dioxide as a feedstock. While we are evaluating commercial Direct to Ethanol[®] projects in the United States, Mexico, South America, Europe, Asia and throughout the rest of the world, our preference is to construct our first or one of our first commercial facilities in Florida. Several considerations will factor into those decisions, including the cost of electricity and the ability to work with carbon dioxide emitters to purchase large quantities of the greenhouse gas in order to recycle it into a valuable commodity rather than releasing it into the atmosphere. An additional benefit to this Petition to Intervene is creating a catalyst for FPL to explore other alternatives to increasing rates, such as collaborating with companies like Algenol to explore CO₂ mitigation strategies that have significant potential to generate rate reducing revenue in the future for all FPL customers. As an example, Algenol's Direct to Ethanol[®] process produces 160 gallons of ethanol from one metric ton of CO₂. Our process economics plan is for Algenol to purchase CO₂ for \$30 per metric ton. Where an existing plant like FPL's West County Energy Center (WCEC) could emit over 10 million metric ton per year of CO₂, then the potential revenue to FPL would be over \$300 million from just one electricity producing plant. Part of this revenue could offset rate increases being sought by FPL. Cost of CO₂ capture and delivery to Algenol needs to be examined and considered in light of both revenue and environmental costs. Florida presently is one of the highest CO₂ emitting states in the nation, and may be the second highest. In addition, 10 million metric ton of

CO₂ could produce over 1.5 billion gallons of cheaper transportation fuel in a state that imports 9 billion gallons of transportation fuel a year. Clearly, 1.5 billion gallons produced domestically in Florida is a material amount to the state of Florida.

7. **Statement of Substantial Interests Affected:**

In this case, the Commission will investigate and consider FPL's request for a general rate increase in an amount as high as \$700 million. The Commission will then set new rates if FPL's request is valid, but the Commission has the responsibility to set new rates that are fair, just and reasonable.

8. Algenol is a commercial customer of FPL in Florida. It is a pre-revenue, start up company with significant facilities in Southwest Florida that require vast amounts of electricity provided by FPL. The consumption of FPL electricity will only increase as Algenol's Integrated Biorefinery operates to full capacity. An unreasonable increase to ratepayers will significantly constrain our company's carefully planned budget, will cause Algenol to raise additional capital faster and limit our ability to expand operations and hire additional employees. In addition, Algenol's ability to pursue large commercial production facilities in Florida, which will create thousands of jobs, will be impaired by an increase in the cost of electricity. Increasing non-controllable costs, such as electricity rates, decreases our ability to attract strategic partners to Florida.

9. Intervenor must meet the two-prong standing test set forth in Agrico Chemical Company v. Department of Environmental Regulation, 406 So. 2d 478, 482 (Fla. 2d DCA 1981). Intervenor must show that (1) they will suffer injury in fact which is of sufficient immediacy to entitle them to a Section 120.57 hearing, and (2) this substantial injury is of a type or nature that the proceeding is designed to protect. Sections 7 and 8 above explains how Algenol meets both prongs, showing injuries in fact that will occur immediately or shortly after any rate increase approved by the Commission takes effect and the proceeding is ultimately to determine new rates that are fair, just and reasonable.

10. Although there are several other parties whose petition to intervene were granted in this docket, Algenol provides a unique perspective as an alternative energy company that (a) has a technology that may provide rate reducing revenue to FPL as an alternative to rate increases charged to ratepayers and (b) is seeking to attract strategic partners to Florida to establish commercial production facilities and create high technology jobs in Florida.

11. **Notice of Docket:**
Algenol received notice of this docket by a review of the Commission's website in April 2012.

12. **Disputed Issues of Material Fact:**

In addition to disputed issues of material facts previously raised by current intervenors to this docket as to the fairness, justness and/or reasonableness of financial, economic and operational assumptions for the rate increase, below are the issues that Algenol suggests are additional disputed issues of material fact in this proceeding:

- Issue 1: What are all the additional sources of revenue that FPL has maximized before seeking a rate increase from electricity customers?
- Issue 2: What is the justification for FPL's refusal to study and examine with a company like Algenol, the ways to biologically sequester carbon dioxide emissions from any of FPL's power plants to supply carbon dioxide in exchange for rate reducing revenue?
- Issue 3: What are other alternatives to rate increases that FPL has considered and exhausted?
- Issue 4: Has FPL considered and quantified the impediments to economic growth and job creation that rate increases will create?
- Issue 5: What are the detrimental effects of high electricity costs on a Florida company's ability to attract capital and strategic partners for commercial projects in Florida in the future?

Algenol reserves all rights to raise additional issues in accordance with the Commission's rules and the anticipated Order Establishing Procedure in this case.

13. **Statement of Ultimate Facts Alleged:**

FPL has the burden to prove that it is entitled to any rate increases, and the Commission will set new rates if FPL's request is valid. For FPL's request to be valid, FPL should also prove that it has considered and exhausted other alternatives to rate increases or that it will seek other revenue opportunities to eliminate or reduce the need to increase rates. Algenol is not only a commercial customer of FPL in Florida, who will be significantly and adversely affected by a rate increase, but also has a technology that may provide rate-reducing revenue to FPL as an alternative to rate increases charged to ratepayers. Algenol is entitled to be an intervenor in this proceeding, and we may offer longer-term solutions to FPL's alleged rising costs.

14. **Applicable Statutes and Rules:**

The applicable statutes and rules that entitle Algenol to relief include, but are not limited to:

- Sections 120.569, 120.57, 366.04(1), 366.05(1), 366.06(1)&(2), and 366.07, Florida Statutes, and
- Rules 25-22.039, 28-106.201 and 28-106.205, Florida Administrative Code.

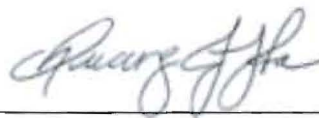
15. **Explanation How the Facts Alleged Entitle Algenol to Relief Requested:**

The applicable Florida statutes and rules set forth in Section 14 above relate to the procedures for a person whose substantial interests are affected by an agency proceeding to petition the agency to intervene in the proceeding and, in this case, where the agency is the Commission and the proceeding is in regard to FPL's request to increase rates. The facts alleged herein demonstrate that: (1) the Commission's decisions will have a significant impact on FPL's rates and charges; (2) Algenol will be directly and adversely impacted by the Commission's decisions to increase FPL's rates and charges herein; (3) Algenol provides a different perspective and insights into other solutions for the Commission to consider; and (4) accordingly, the statutes and rules herein provide the basis for the relief requested by Algenol in its Petition to Intervene. Algenol is entitled to intervene and participate in this proceeding to hear and determine whether to grant FPL's request for a rate increase.

[Remainder of this page is left blank.]

16. **Relief Requested:**

WHEREFORE, Algenol respectfully requests that the Florida Public Service Commission grant this Petition to Intervene. Additionally, Algenol respectfully requests that the Commission require that all parties to this proceeding serve copies of all pleadings, notices and other documents on Algenol representatives indicated in section 2 above.



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(Not yet admitted to practice in Florida)

Certificate of Service

I HEREBY CERTIFY that a true and correct copy of the foregoing has been served by electronic mail, U.S. Mail, or Federal Express, this 25th day of May 2012, to the following:

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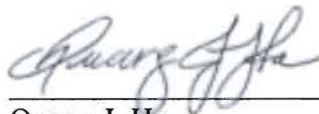
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