

**STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS**

IN RE: PROGRESS ENERGY FLORIDA

DOAH CASE NO. 08-2727EPP

LEVY NUCLEAR PROJECT UNITS 1 AND 2

OGC CASE NO. 08-1621

**PETITION TO INTERVENE OF
THE SOUTHERN ALLIANCE FOR CLEAN ENERGY, INC.**

The Southern Alliance for Clean Energy, Inc. (“SACE”) , pursuant to Rule 28-106.205, Florida Administrative Code, and section 403.508(3)(e), Florida Statutes, files this Petition to Intervene in this Power Plant Siting Application.

I. AGENCIES AFFECTED

1. The agencies affected by this petition include the Florida Department of Environmental Protection, all agencies listed in section 403.508(3)(a), F.S., and Levy County.

II. IDENTIFICATION OF PETITIONER

2. Petitioner Southern Alliance for Clean Energy, Inc., is a not-for-profit corporation organized under the laws of the State of Tennessee, that meets definition of “person” in section 403.503(22).

3. The mailing address and telephone for SACE are P.O. Box 1842, Knoxville, Tennessee 37901-1842, and (865) 637-6055, respectively.

III. PETITIONER’S SUBSTANTIAL INTERESTS

4. The mission of SACE is to promote responsible, economic energy choices that solve global warming problems and ensure clean, safe and healthy communities throughout the

Southeast, including the State of Florida. SACE has staff working from offices located in Florida, Tennessee, North Carolina, Georgia and South Carolina.

5. SACE has members in the State of Florida, dedicated to the promotion of responsible energy choices with 718 supporters living in the service area that will be affected by this proceeding. SACE also has 1328 supporters across the state.

6. In furtherance of its mission, SACE is deeply involved in advocacy on adoption, implementation, and enforcement of meaningful requirements to evaluate and assess resources for new electricity capacity. SACE experts have provided testimony in numerous forums in Florida, including before the Florida Public Service Commission, the Governor's Climate and Energy Action Team, the Florida State Legislature, and the Department of Environmental Protection.

7. Also in furtherance of its mission, SACE works to ensure that Legislative and regulatory leaders in the Southeastern states are apprised of effective and appropriate measures to protect their citizens by implementing supports for energy efficiency and energy facilities siting, and, by enacting strong laws regulating air pollution, water impacts, and causes of global warming.

8. The genesis of this proceeding is Progress Energy of Florida's ("FEP's") petition to site two new nuclear units on a new compound in Levy County, Florida. This matter will determine if the first nuclear power plant on a Greenfield site is to be built in Florida in more than thirty (30) years; a project that will entail the single, largest development of electric transmission infrastructure in the history of Florida.

9. There is substantial uncertainty as to whether the proposed plant is suitable for the environment where it is to be located. The development introduces enormous risks throughout a

broad geographic area, for the water supply, which includes a large number of precious springs, the Withlacoochee River and the Cross Florida Barge Canal. There is additional risk for wetlands, and for wildlife and vegetation, as well as fish and other marine wildlife which are placed in particular risk because of issues related to the intake and release of cooling water for the plant. The technology anticipated by PEF to mitigate this condition remains uncertain. This issue has the ability to impose devastating demands on the water supply in the region. Further, the massive extraction of water can kill or injure billions of aquatic organisms in a year.

10. This proposed plant has every potential to place inordinate pressures on the local transportation infrastructure, on citizen access to real property, and on the proper allocation of natural resources for land uses other than the power plant.

IV. NOTICE OF AGENCY ACTION

11. SACE received notice of FEP's intent to site a nuclear power plant in Levy County on June 9, 2008, when notice of FEP's submittal of an application for power plant certification to the Department of Environmental Protection was published by the Division of Administrative Hearings.

V. STATEMENT OF DISPUTED ISSUES OF FACT

12. Whether the proposed nuclear power plant would adversely affect water resources, including water supply and water quality in a broad basin surrounding the site.

13. Whether the proposed nuclear power plant would adversely affect wetlands, habitats for endangered species, and aquatic resources in the area surrounding the site.

14. Whether the construction of two new nuclear units promotes electric system reliability and integrity, and whether such an extensive development of transmission corridor is in the public interest in this area.

15. Whether development of transmission corridor on this scale poses additional risks to wetlands, habitats for endangered species, and aquatic resources in the area surrounding the site.

16. Whether the proposed nuclear power plant would adversely affect human health and safety, taking into consideration risks of radioactive exposure, as well as physical security for the site.

17. Whether the handling and disposal of spent fuel and other waste products of the nuclear power plant present public health risks.

STATEMENT OF ULTIMATE FACTS WARRANTING DENIAL

18. The proposed construction of the nuclear power plant does not represent a reasonable balance between needs for electricity supply, electric fuel diversity, and the environmental impacts of constructing this plant, including impacts to water, endangered species, aquatic species and wetlands.

19. The construction of this proposed nuclear plant would not serve and protect the greater interests of the general public.

20. The construction of 3,200 MW of capacity in this proposed nuclear plant is not needed by 2016 by FEP, and, is heavily dependent upon joint ventures with unknown partners not a party to this process.

21. The construction of the proposed nuclear power plant at the location proposed would require the construction of a massive set of new transmission lines, and the establishment of transmission line corridors that do not serve the greater interest of the public.

22. As presently proposed, FEP cannot provide reasonable assurance that the operation of a 3,200 MW nuclear power plant would produce only minimal adverse impacts to the local transportation infrastructure, and to the general public's health and safety.

23. As presently proposed, the construction and operation of the nuclear power plant does not comply with the nonprocedural requirements of the environmental protection agencies, as required in section 403.508, Florida Statutes.

STATUTES AND RULES THAT REQUIRE THE RELIEF REQUESTED

21. The statutes and rules that require the relief requested by SACE include, but are not limited to, Chapter 120, and, sections 403.509 and 403.529, Florida Statutes, as well as Rules 25-22.039, 25-22.080, and 25-22.081, F.A.C.

22. Rule 25-22.039, Florida Administrative Code, provides that persons whose substantial interests are subject to determination in, or may be affected through an agency proceeding are entitled to intervene in such proceeding.

23. Section 403.509(3), Florida Statutes, provides the guidelines and vital considerations on which a decision to approve a power plant siting should be based. These guidelines require that the proposed plant:

- (a) Provide reasonable assurance that operational safeguards are technically sufficient for the public welfare and protection;
- (b) Comply with applicable nonprocedural requirements of agencies;
- (c) Be consistent with applicable local government comprehensive plans and land development regulations;
- (d) Meet the electrical energy needs of the state in an orderly, reliable, and timely fashion;
- (e) Effect a reasonable balance between the need for the facility as established pursuant to s. 403.519, and the impacts upon air and water quality, fish and wildlife, water resources, and other natural resources of the state resulting from the construction and operation of the facility;
- (f) Minimize, through the use of reasonable and available methods, the adverse effects on human health, the environment, and the ecology of the land and its wildlife and the ecology of state waters and their aquatic life and

(g) Serve and protect the broad interests of the public.

24. Section 403.529(3), Florida Statutes, provides the guidelines and vital considerations on which a decision to approve a transmission corridor associated with a power plant siting should be based. These guidelines require that the proposed transmission corridor:

- (a) Ensure electric power system reliability and integrity;
- (b) Meet the electrical energy needs of the state in an orderly, economical, and timely fashion;
- (c) Comply with applicable nonprocedural requirements of agencies;
- (d) Be consistent with applicable provisions of local government comprehensive plans, if any; and
- (e) Effect a reasonable balance between the need for the transmission line as a means of providing reliable, economically efficient electric energy, as determined by the commission, under s. 403.537, and the impact upon the public and the environment resulting from the location of the transmission line corridor and the construction, operation, and maintenance of the transmission lines.

25. Determinations on any or all of these criteria will have a substantial impact on SACE's members, as set out above. The substantial interests of SACE's members are of a type or nature which this proceeding is designed to protect.

RELIEF SOUGHT

30. WHEREFORE, SACE respectfully requests it be authorized to intervene with full rights as a party in this hearing, and at the conclusion of the hearing, the Administrative Law Judge issue a recommended order, and the Siting Board issue enter a final order finding that, after consideration of all facts and factors, the construction of the nuclear power plant in Levy County is not appropriate under the standards set out in the Florida Power Plant Siting Act.

31. SACE further requests that the Administrative Law Judge and the Siting Board grant such other relief as is necessary and appropriate.

Respectfully submitted on this 21st day of August, 2008.

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been provided by
U S mail and electronic mail on this 21st day of August, 2008 to the following:

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