

1 **STATE OF WASHINGTON**  
2 **DEPARTMENT OF FINANCIAL INSTITUTIONS**  
3 **SECURITIES DIVISION**

4 IN THE MATTER OF DETERMINING  
5 whether there has been a violation  
6 of the Securities Act of Washington by:

7 PROGRESSIVE ENERGY PARTNERS  
8 LLC; PROGRESSIVE ENERGY  
9 PARTNERS LLC #1; PROGRESSIVE  
10 ENERGY PARTNERS LLC #2;  
11 PROGRESSIVE ENERGY PARTNERS LLC  
12 #3; PROGRESSIVE ENERGY PARTNERS  
13 LLC #4,

14 Respondents.

Order Number S-06-230-09-FO01

ENTRY OF FINDINGS OF FACT AND  
CONCLUSIONS OF LAW AND FINAL  
ORDER TO CEASE AND DESIST AND  
IMPOSE FINES AND COSTS

15 THE STATE OF WASHINGTON TO:

16 Carol Dee Aubrey  
17 Progressive Energy Partners LLC  
18 Progressive Energy Partners LLC #1  
19 Progressive Energy Partners LLC #2  
20 Progressive Energy Partners LLC #3  
21 Progressive Energy Partners LLC #4

22 On October 2, 2009, the Securities Administrator of the State of Washington issued Statement of  
23 Charges and Notice of Intent to Enter an Order to Cease and Desist, Impose Fines, and Recover Costs,  
24 hereinafter referred to as "Statement of Charges," against Carol Dee Aubrey, Progressive Energy Partners  
LLC, Progressive Energy Partners LLC #1, Progressive Energy Partners LLC #2, Progressive Energy  
Partners LLC #3, and Progressive Energy Partners LLC #4.

The Statement of Charges, together with a Notice of Opportunity to Defend and Opportunity for  
Hearing, hereinafter referred to as "Notice of Opportunity for Hearing," and an Application for  
Adjudicative Hearing, hereinafter referred to as "Application for Hearing," were served on the personal

1 representative for Progressive Energy Partners #1, Progressive Energy Partners #2, Progressive Energy  
2 Partners #3, and Progressive Energy Partners #4 on October 9, 2009; on the personal representative for  
3 Progressive Energy Partners LLC on October 16, 2009; and on Carol Dee Aubrey on October 16, 2009.

4 The Notice of Opportunity for Hearing advised Carol Dee Aubrey, Progressive Energy Partners  
5 LLC, Progressive Energy Partners LLC #1, Progressive Energy Partners LLC #2, Progressive Energy  
6 Partners LLC #3, and Progressive Energy Partners LLC #4 that a written application for an  
7 administrative hearing on the Statement of Charges must be received within twenty days from the date of  
8 receipt of the notice. Carol Dee Aubrey, Progressive Energy Partners LLC, Progressive Energy Partners  
9 LLC #1, Progressive Energy Partners LLC #2, Progressive Energy Partners LLC #3, and Progressive  
10 Energy Partners LLC #4 each failed to request an administrative hearing within 20 days of receipt of the  
11 Statement of Charges and Notice of Opportunity for Hearing, either on the Application for Hearing  
12 provided or otherwise.

13 The Securities Administrator therefore will adopt as final the findings of fact and conclusions of law  
14 as set forth in the Statement of Charges.

## 15 FINDINGS OF FACT

### 16 Respondents

17 1. Carol Dee Aubrey (“Aubrey”) is a person believed to be a resident of Santa Ana, California.  
18 Aubrey is the manager of Progressive Energy Partners LLC. In addition, Aubrey (or Carol Dee  
19 Aubrey) is listed as the manager of Progressive Energy Partners LLC #1, Progressive Energy Partners  
20 LLC #2, Progressive Energy Partners LLC #3, and Progressive Energy Partners LLC #4 in documents  
21 filed with the Nevada Secretary of State.

22 2. Progressive Energy Partners LLC (“Progressive Energy”) is a Nevada limited liability  
23 company that was formed on June 16, 2005. Its principal place of business is located at 2060  
24 ENTRY OF FINDINGS OF FACT AND CONCLUSIONS OF LAW 2 DEPARTMENT OF FINANCIAL INSTITUTIONS  
AND FINAL ORDER TO CEASE AND DESIST AND IMPOSE FINES AND COSTS  
Securities Division  
PO Box 9033  
Olympia, WA 98507-9033  
360-902-8760

1 Placentia Ave, Suite A5, Costa Mesa, California 92627. Progressive Energy Partners LLC procures,  
2 develops, and operates oil and gas producing entities. Progressive Energy Partners LLC acts as the  
3 manager of Progressive Energy Partners LLC #1, Progressive Energy Partners LLC #2, Progressive  
4 Energy Partners LLC #3, and Progressive Energy Partners LLC #4.

5 3. Progressive Energy Partners LLC #1 is a Nevada limited liability company that was formed  
6 on July 29, 2005. Its principal place of business is located at 2060 Placentia Ave, Suite A5, Costa  
7 Mesa, California 92627.

8 4. Progressive Energy Partners LLC #2 is a Nevada limited liability company that was formed  
9 on September 20, 2006. Its principal place of business is located at 2060 Placentia Ave, Suite A5,  
10 Costa Mesa, California 92627.

11 5. Progressive Energy Partners LLC #3 is a Nevada limited liability company that was formed  
12 on March 7, 2007. Its principal place of business is located at 2060 Placentia Ave, Suite A5, Costa  
13 Mesa, California 92627.

14 6. Progressive Energy Partners LLC #4 is a Nevada limited liability company that was formed  
15 August 30, 2007. Its principal place of business is located at 2060 Placentia Ave, Suite A5, Costa  
16 Mesa, California 92627.

17 Sales in Washington

18 7. Between 2005 and 2008, Progressive Energy Partners LLC (“Progressive Energy”) offered  
19 and sold at least \$1,356,250 in investments to at least 22 Washington residents. The investments were  
20 in the form of LLC units in four limited liability companies created and managed by Progressive Energy  
21 for the purpose of developing oil and gas wells. The units were offered for \$25,000 each. Progressive  
22 Energy offered and sold more than \$9 million in investments nationwide.

1 8. Progressive Energy Partners LLC #1 (“PEP #1”) was a \$900,000 offering of 36 units, with an  
2 option to extend the offering by 6 additional units for a maximum offering of \$1,050,000. The purpose of  
3 the offering was to develop four existing oil and gas wells and drill one new well on land located in West  
4 Virginia. Between October 2005 and August 2006, six Washington residents purchased \$106,250 in LLC  
5 units in PEP #1.

6 9. Progressive Energy Partners LLC #2 (“PEP #2”) was a \$1,500,000 offering of 60 units, with  
7 an option to extend the offering by 10 more units for a maximum offering of \$1,750,000. The offering  
8 raised funds to develop eight existing oil and gas wells in West Virginia. Between October 2006 and  
9 March 2007, ten Washington residents purchased \$206,250 in LLC units in PEP #2.

10 10. Progressive Energy Partners LLC #3 (“PEP #3”) was a \$2,000,000 offering of 80 units, with  
11 an option to extend the offering by 8 units to a maximum offering of \$2,200,000. The purpose of the  
12 offering to develop twelve existing oil and gas wells in West Virginia. Between April 2007 and August  
13 2007, seven Washington residents purchased \$87,500 in LLC units in PEP #3.

14 11. Progressive Energy Partners LLC #4 (“PEP #4”) was a \$1,800,000 offering of 72 units, with an  
15 option to extend the offering by 8 additional units for a maximum offering of \$2,000,000. The offering  
16 raised funds to develop two oil and gas wells in West Virginia. Between October 2007 and June 2008,  
17 fifteen Washington residents purchased \$556,250 in LLC units in PEP #4.

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20  
21 Nature of the Offering

1           12. Progressive Energy solicited sales of LLC units in PEP #1, PEP #2, PEP #3, and PEP #4  
2 through cold calling. Progressive Energy cold called at least 8 Washington residents who had no prior  
3 relationship with Progressive Energy.

4           13. Progressive Energy sent packets of information to Washington residents who expressed  
5 interest in one of the offerings. The packet contained a private placement memorandum for the offering, a  
6 purchaser questionnaire, a subscription agreement, and a limited liability company agreement. In addition,  
7 the packet contained a glossy brochure for Progressive Energy Partners LLC with an insert that contained  
8 investment performance projections.

9           14. In its brochure, Progressive Energy Partners LLC provided a list of “Reasons to Invest in Oil  
10 and Gas.” These reasons included “Potential High Financial Rewards,” under which the brochure listed  
11 “Return of Capital in as little as 12 to 24 months,” “Better than 10 to 1 Potential Return on Investment,”  
12 and “Greater than 50% Annual Rate of Return.” The brochure stated that Progressive Energy would  
13 reduce or eliminate the risk of investing in oil and gas by focusing on existing fields and utilizing  
14 technologies that were not available 10 years ago.

15           15. An insert in the brochure contained the projected distributions for each offering. For instance,  
16 the PEP#1 offering insert projected that a one unit investment of \$25,000 would produce over \$112,000 in  
17 accumulative distributions within five years. The insert projected that in the first year, the investor would  
18 receive \$2,345 in distribution per unit per month. In addition to these written representations, sales  
19 representatives made earnings projections during cold calls to Washington residents.

20           16. In the private placement memoranda for PEP #1, PEP #2, PEP #3, and PEP #4, Progressive  
21 Energy purported to rely on exemptions from registration under Regulation D or Section 4(2).  
22 Progressive Energy further represented in the private placement memoranda that the “offer is strictly

1 limited to accredited investors.” Accredited investors are investors with a net worth (excluding the  
2 value of a primary residence) of \$1,000,000 or more, or an annual income exceeding \$200,000 for two  
3 or more consecutive years.

4 17. Though Progressive Energy purported to rely on Regulation D, Progressive Energy did not  
5 file a Form D with the U.S. Securities and Exchange Commission for any of the offerings, nor make a  
6 notice filing with the Securities Administrator in Washington State within 15 days of the first sale in  
7 Washington.

8 18. To qualify for an exemption from registration in Washington, under Regulation D or  
9 otherwise, a securities offering may not be conducted through general solicitation, and may sell only  
10 to accredited and/or sophisticated investors. Progressive Energy used cold calls, a form of general  
11 solicitation, to locate investors in Washington. In addition, Progressive Energy sold securities to  
12 investors who were not accredited or sophisticated.

### 13 Representative Sales

#### 14 *Investor A*

15 19. In October 2006, Investor A, a Washington resident, received an unsolicited call from Jon  
16 Davis (“Davis”). Investor A did not know Davis or have any prior relationship with him. Davis wanted  
17 to discuss an oil and gas investment opportunity in PEP #2. Investor A was not experienced in oil and gas  
18 investments and his only investments were in US Treasury Bonds. During this conversation, Davis told  
19 Investor A that PEP #1 was doing well and that PEP #2 would likely produce similar results. Davis told  
20 Investor A that there was a low risk to the investment and Investor A could make “tons” of money. Davis  
21 told Investor A that he could expect checks of around \$1,100 per month.

22 20. Investor A received a large packet in the mail from Progressive Energy. The packet included  
23 income projections for the investment and a purchaser questionnaire that asked about Investor A’s annual

1 income and Investor A's net worth. The revenue projections chart stated that Investor A could earn up to  
2 \$2,614.74 per month for the first year.

3 21. The packet contained a purchaser questionnaire which all potential investors needed to  
4 complete in order to determine if they were eligible to participate in the offering. The questionnaire  
5 required potential investors to supply information on their net worth, annual income, and investment  
6 experience, and to indicate how they qualified as an accredited investor.

7 22. Investor A did not make \$200,000 annually or have a net worth over \$1,000,000. In a follow  
8 up call, Davis told Investor A that it did not matter whether he was an accredited investor; he would still  
9 be able to invest in PEP #2. Based on this information, Investor A did not complete or return the  
10 purchaser questionnaire.

11 23. Investor A invested in one unit of PEP #2 for \$25,000 in October 2006. His investment was  
12 accepted even though he did not return the purchaser questionnaire. Investor A's main reasons for  
13 investing were the revenue projections for the investment and the reported success of PEP #1. Investor A  
14 financed the investment by taking out a \$25,000 line of credit on his home.

15 24. Investor A received his first dividend check in late 2007. He received checks every month  
16 until the checks stopped in January 2009. The first few checks were the largest, with the largest check  
17 being \$384. However, the last check was for only \$84. Investor A has received a total return of  
18 approximately \$3,600. This amount fell far short of the projected return on Investor A's investment.

19  
20  
21 *Investor B*

1           25. In early 2008, Investor B received a cold call from a Progressive Energy representative named  
2 Bill. Bill offered Investor B an oil and gas investment opportunity in PEP #4. During the phone  
3 conversation, Bill told Investor B that investing in oil and natural gas was much better than investing in  
4 the stock market. Bill told Investor B that she would receive monthly dividend checks around \$400 to  
5 \$500 dollars. Investor B had no prior experience in investing in oil and gas.

6           26. After this initial conversation, Investor B received a private placement memorandum, revenue  
7 projections, and a purchaser questionnaire in the mail from Progressive Energy. Investor B was  
8 concerned that her family did not have a high enough net worth or make enough money during a given  
9 year to satisfy the investment requirements outlined in the purchaser questionnaire. She called  
10 Progressive Energy regarding this and was told that there was a way around the questionnaire and that  
11 she would still be able to invest. Based on this information, Investor B did not return the purchaser  
12 questionnaire.

13           27. Investor B and her husband decided to invest \$25,000 in PEP #4 in April 2008. Investor B  
14 made the decision to invest based upon the projections made in the phone conversations and in  
15 writing, as well the high prices in the oil and natural gas market at the time. In order to make the  
16 investment, Investor B borrowed \$25,000 from a line of credit she had with a bank.

17           28. After the investment, dividend checks arrived less frequently than Investor B expected and  
18 were far below the amounts that were projected. She received her first check in October 2008 for  
19 either \$160 or \$180. This was the largest check she received; subsequent checks were for as little as  
20 \$25.

21           29. Progressive Energy is currently not issuing dividend checks. Progressive Energy has  
22 purportedly shut down operations in response to the current market prices for oil and natural gas.



1 Progressive Energy has represented to Investor B that it is repairing and updating its drilling  
2 equipment for future use.

3 30. In addition to Investor A and Investor B, at least three additional Washington investors who  
4 were not accredited or sophisticated received unsolicited cold calls from Progressive Energy and were  
5 permitted to invest. In each case, the Washington resident was not experienced with investing in oil and  
6 gas.

7 31. Progressive Energy maintained questionnaires on file for only 15 out of 22 Washington  
8 investors. Progressive Energy representatives told at least three Washington investors that they did not  
9 need to return the purchaser questionnaire form. At least four investors without questionnaires on file  
10 were not accredited or sophisticated investors. In addition, at least two investors who returned  
11 questionnaires appear from their answers to be neither accredited nor sophisticated.

#### 12 Other Actions

13 32. On January 12, 2007, the South Dakota Department of Revenue and Regulation, Division  
14 of Securities, issued a Cease and Desist Order against PEP as a result of the offer of unregistered  
15 securities in a similar oil and gas project.

16 33. On April 18, 2008 Pennsylvania Securities Commission issued a Summary Order to Cease  
17 and Desist against Progressive Energy Partners, LLC #4 and Progressive Energy Partners, LLC.

#### 21 Misrepresentations and Omissions

1 34. Progressive Energy failed to provide material information regarding PEP #1, PEP #2, PEP #3,  
2 and PEP #4 in the private placement memoranda, including but not limited to the names and backgrounds  
3 of those who were managing the LLCs and the specific risk factors related to oil and gas investments.

4 35. Progressive Energy failed to maintain or provide financial statements for Progressive Energy  
5 LLC, PEP #1, PEP #2, PEP #3 and PEP #4. The private placement memoranda for PEP #2, PEP #3 and  
6 PEP #4 indicated that manager Progressive Energy did not have financial statements because it was a new  
7 company. These statements were false or misleading because at the time of these offerings, Progressive  
8 Energy had been in business as an LLC manager and had conducted the PEP #1 offering.

9 36. Progressive Energy failed to provide a reasonable basis for the projections of returns made to  
10 investors and potential investors.

11 37. Progressive Energy failed to disclose to Washington investors who purchased LLC units after  
12 January 12, 2007 that two cease and desist orders had been issued against Progressive Energy and its  
13 related LLCs.

14 38. Progressive Energy sold more LLC units than the maximum offering amounts stated in the  
15 offering memoranda for PEP #1, PEP #2, PEP #3, and PEP #4. Progressive Energy sold \$1,250,000 in  
16 units for PEP #1, despite a stated maximum offering amount of \$1,050,000. Progressive Energy sold  
17 \$1,887,500 in units in PEP #2, despite a stated maximum offering amount of \$1,750,000. Progressive  
18 Energy sold \$2,775,000 units in PEP #3, despite a stated maximum offering amount of \$2,200,000.  
19 Finally, Progressive Energy sold \$3,275,000 units in PEP #4, despite a stated maximum offering amount  
20 of \$2,000,000. Progressive Energy Partners failed to disclose to investors that their interests could  
21 become diluted.

22 Registration Status

1 39. Progressive Energy Partners LLC #1 is not currently registered to sell its securities in the state  
2 of Washington and has not previously been so registered. In addition, there is no notice of a claim of  
3 exemption on file with the Securities Administrator.

4 40. Progressive Energy Partners LLC #2 is not currently registered to sell its securities in the state  
5 of Washington and has not previously been so registered. In addition, there is no notice of a claim of  
6 exemption on file with the Securities Administrator.

7 41. Progressive Energy Partners LLC #3 is not currently registered to sell its securities in the state  
8 of Washington and has not previously been so registered. In addition, there is no notice of a claim of  
9 exemption on file with the Securities Administrator.

10 42. Progressive Energy Partners LLC #4 is not currently registered to sell its securities in the state  
11 of Washington and has not previously been so registered. In addition, there is no notice of a claim of  
12 exemption on file with the Securities Administrator.

13 43. Progressive Energy Partners LLC is not registered as a broker-dealer in the state of  
14 Washington, and has not previously been so registered.

15  
16 Based upon the above Findings of Fact, the following Conclusions of Law are made:

17 **CONCLUSIONS OF LAW**

18 1. The offer and/or sale of LLC units in Progressive Energy Partners LLC #1, Progressive  
19 Energy Partners LLC #2, Progressive Energy Partners LLC #3, and Progressive Energy Partners LLC  
20 #4 each constitutes the offer or sale of a security as defined in RCW 21.20.005(10) and (12).

21 2. The offer and/or sale of said securities violated RCW 21.20.140, the securities registration  
22 provision of the Securities Act, because the Progressive Energy Partners LLC #1, Progressive Energy

1 Partners LLC #2, Progressive Energy Partners LLC #3, and Progressive Energy Partners LLC #4  
2 offerings were not registered in the State of Washington.

3 3. The offer and/or sale of said securities was made in violation of RCW 21.20.040, the  
4 provision of the Securities Act which requires registration of securities salespersons and broker-  
5 dealers, because Progressive Energy Partners LLC sold securities while not registered as a securities  
6 salesperson or broker-dealer in the State of Washington.

7 4. The offer and/or sale of said securities was made in violation of RCW 21.20.010, the anti-  
8 fraud provision of the Securities Act, because Respondents Carol Dee Aubrey, Progressive Energy  
9 Partners LLC, Progressive Energy Partners LLC #1, Progressive Energy Partners LLC #2, Progressive  
10 Energy Partners LLC #3, and Progressive Energy Partners LLC #4, in connection with the offer or  
11 sale of said securities directly or indirectly made untrue statements of material fact or omitted to state  
12 material facts necessary in order to make the statements made, in light of the circumstances under  
13 which they were made, not misleading.

14 **FINAL ORDER**

15 Based on the foregoing and finding it in the public interest:

16 It is hereby ORDERED that Respondents Carol Dee Aubrey, Progressive Energy Partners LLC,  
17 Progressive Energy Partners LLC #1, Progressive Energy Partners LLC #2, Progressive Energy  
18 Partners LLC #3, and Progressive Energy Partners LLC #4, and their agents and employees, each  
19 cease and desist from violation of RCW 21.20.140, the securities registration section of the Securities  
20 Act.

1 It is further ORDERED that Respondent Progressive Energy Partners LLC, and its agents and  
2 employees, each cease and desist from violation of RCW 21.20.040, the section of the Securities Act  
3 requiring registration of securities salespersons and broker-dealers.

4 It is further ORDERED that Respondents Carol Dee Aubrey, Progressive Energy Partners LLC,  
5 Progressive Energy Partners LLC #1, Progressive Energy Partners LLC #2, Progressive Energy  
6 Partners LLC #3, and Progressive Energy Partners LLC #4, and their agents and employees, each  
7 cease and desist from violation of RCW 21.20.010, the anti-fraud section of the Securities Act.

8 It is further ORDERED that Respondents Carol Dee Aubrey, Progressive Energy Partners LLC,  
9 Progressive Energy Partners LLC #1, Progressive Energy Partners LLC #2, Progressive Energy  
10 Partners LLC #3, and Progressive Energy Partners LLC #4 shall each be liable for and pay a fine in  
11 the amount of \$10,000.

12 It is further ORDERED that Respondents Carol Dee Aubrey, Progressive Energy Partners LLC,  
13 Progressive Energy Partners LLC #1, Progressive Energy Partners LLC #2, Progressive Energy  
14 Partners LLC #3, and Progressive Energy Partners LLC #4 shall be jointly liable for and pay costs in  
15 the amount of \$1,500.

#### 16 **AUTHORITY AND PROCEDURE**

17 This Final Order is entered pursuant to the provisions of RCW 21.20.390 and RCW 21.20.395  
18 and is subject to the provisions of RCW 21.20.440 and Chapter 34.05 RCW. The Respondents have  
19 the right to petition the superior court for judicial review of this agency action under the provisions of  
20 chapter 34.05 RCW. For the requirements for filing a Petition for Judicial Review, see RCW  
21 34.050.510 and sections following. Pursuant to RCW 21.20.395, a certified copy of this order may be  
22

1 filed in Superior Court. If so filed, the clerk shall treat the order in the same manner as a Superior  
2 Court judgment as to the fine, and the fine may be recorded, enforced, or satisfied in like manner.

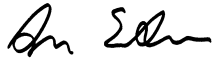
3 **WILLFUL VIOLATION OF THIS ORDER IS A CRIMINAL OFFENSE.**

4 DATED AND ENTERED this 7th day of December, 2009.

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7 \_\_\_\_\_  
MICHAEL E. STEVENSON  
Securities Administrator

8 Approved by:

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11 \_\_\_\_\_  
SUZANNE SARASON  
Chief of Enforcement

Presented by:

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10 

11 \_\_\_\_\_  
JILL M. VALLELY  
Enforcement Attorney