

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Review of Florida Power Corporation's earnings, including Effects of proposed acquisition of Florida Power Corporation by Carolina Power & Light.

Docket No. 000824-EI

Dated May 23, 2003

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COMMISSION CLERK

MOTION TO CONTINUE DEPOSITIONS AND ESTABLISH A REASONABLE DISCOVERY SCHEDULE

Progress Energy Florida, Inc. ("Progress Energy"), by undersigned counsel, hereby files a motion to continue the depositions presently Noticed by Public Counsel for June 4, 2003, and also requests an Order permitting Progress Energy a reasonable period of time to respond to Public Counsel's written discovery through and including June 11, 2003. Progress Energy further requests that this Commission establish a reasonable discovery schedule as described herein. This motion shall also serve as Progress Energy's response to Public Counsel's request for expedited discovery. In support of its motion, Progress Energy shows as follows:

Introduction

Progress Energy is a party to this proceeding and is entitled to participate in it with a fair and reasonable schedule in place to govern the conduct of the parties. In the past several days, Public Counsel has undertaken to schedule 5 depositions and demand expedited responses to written discovery without regard to Progress Energy and without discussion with its counsel - except as to whether Progress Energy agreed to Public Counsel's schedule. Progress Energy cannot agree that the schedule proposed is reasonable, and by this motion, seeks to continue the

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depositions scheduled for June 4, 2003,¹ until after June 11, 2003, at which time it will agree, subject to its objections, to respond to Public Counsel's pending written discovery.

Argument

Progress Energy objects to Public Counsel's Notice of Deposition to employees of Progress Energy as scheduled.² On Monday of this week, Public Counsel unilaterally set the depositions of five Progress Energy employees for June 4, 2003 without contacting counsel. Then, on Wednesday of this week, Public Counsel served written discovery on Progress Energy and a Motion to expedite discovery based, in part, on the fact that depositions were scheduled for June 4, 2003. This is not an appropriate basis to seek expedited written discovery, nor should Public Counsel unilaterally set depositions in this or any other proceeding. Public counsel should be required to provide Progress Energy with a reasonable time to consider its requests and arrange for the attendance of witnesses at depositions on a reasonable basis.

To this end, Progress Energy, here, proposes a middle ground that will provide the parties with ample notice of all discovery and provide for the orderly conduct of discovery in this docket. Specifically, Progress Energy proposes that the Commission enter and order establishing the following schedule.

1. Progress Energy will agree to complete its responses to all pending written discovery, subject to its objections, on or before June 11, 2003.
2. Progress Energy will agree (subject to motions for protective order relating to individual deponents) to make the identified persons available for deposition between June 11th

¹ Progress Energy additionally reserves the right to file appropriate Motions for Protective Order relating to individual deponents as may be necessary.

² Progress Energy additionally reserves the right to file appropriate Motions for Protective Order relating to individual deponents as may be necessary.

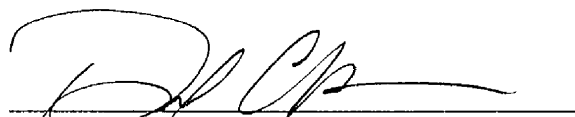
and June 20th so the parties have ample opportunity to raise any matters with the Commission in the time reserved on June 30, 2003.

This schedule is eminently reasonable and fairly balances Progress Energy's right to a fair and reasonable discovery schedule with the Public Counsel's desire to obtain it during the time frame established by the Commission. Public Counsel will not be prejudiced by the granting of this Motion.

Wherefore, Progress Energy requests that this Commission issue an Order continuing the depositions scheduled for June 4, 2003 and putting into place the schedule proposed by Progress Energy to make sure that all parties have a fair opportunity to participate in these proceedings.

Progress Energy has not had an opportunity to determine whether Public Counsel will oppose this motion. It will attempt to advise counsel for the Commission of the Public Counsel's position orally upon reaching same.

Respectfully submitted,



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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true copy of foregoing has been furnished via facsimile (as indicated by **) and U.S. Mail to the following this 23nd day of May, 2003.

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