

State of Florida



Public Service Commission

CAPITAL CIRCLE OFFICE CENTER • 2540 SHUMARD OAK BOULEVARD
TALLAHASSEE, FLORIDA 32399-0850

-M-E-M-O-R-A-N-D-U-M-

DATE: October 11, 2007

TO: Office of Commission Clerk (Cole)

FROM: Office of the General Counsel (Bennett) *RB*
Division of Economic Regulation (Redemann, Rieger) *SDR* *S.M.C.*

RE: Docket No. 070546-EI – Petition for expedited approval of temporary territorial variance by Tampa Electric Company.

AGENDA: 10/23/07 – Regular Agenda – Proposed Agency Action - Interested Persons May Participate

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Carter

CRITICAL DATES: None

SPECIAL INSTRUCTIONS: None

FILE NAME AND LOCATION: S:\PSC\GCL\WP\070546.RCM.DOC

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Case Background

On July 30, 2007, Tampa Electric Company (TECO) filed a petition for expedited approval of a temporary territorial variance. This variance will enable TECO to provide retail electric service to a transmission level (69 kV) customer in Manatee County who is located within an area currently served by Peace River Electric Cooperative, Inc. (PRECO). Relevant Commission approved agreements were considered in Docket Nos. 810466-EU, 870303-EU, 870816-EU, and 940376-EU.¹

¹ See Order No. 10564, issued February 3, 1982, in Docket No. 810466-EU, In re: Joint application of Tampa Electric Company and Florida Power and Light Company for approval of retail territorial agreement relative to respective electric systems and service areas, which approved a territorial boundary line between the respective

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This is staff's recommendation regarding the utility's petition for a temporary territorial variance. The petition is appended to this recommendation as Attachment A. The Commission has jurisdiction over this matter pursuant to section 366.04, Florida Statutes, and Rule 25-6.0440, Florida Administrative Code.

areas at the Hillsborough-Manatee County line; Order No. 17585, issued May 22, 1987, in Docket No. 870303-EU, In re: Joint Petition of Tampa Electric Company and Peace River Electric Cooperative, Inc. for approval of a territorial agreement, which approved TECO's right to continue to serve its existing transmission (69KV) level customers in the area otherwise allocated to PRECO; Order 18332, issued October 22, 1987, in Docket No. 870816-EU, In re: Joint petition for approval of territorial agreement between Florida Power & Light Company and Peace River Electric Cooperative, Inc., which approved an agreement that delineated the utilities' respective service territories in a multi-county area which included that area in Manatee County allocated to PRECO which TECO proposed to serve; and in Order No. PSC-94-1522-FOF-EU, issued December 12, 1994, in Docket No. 940376-EU, In re: Joint petition for approval of territorial agreement between Florida Power Corporation and Peace River Electric Cooperative, Inc., which addressed the rights and obligations between the parties to provide services to a multi-county area which included that area in Manatee County which TECO proposed to serve.

Discussion of Issues

Issue 1: Should the Commission approve Tampa Electric Company's petition for expedited approval of a temporary territorial variance?

Recommendation: Yes. The petition for expedited approval of a temporary territorial variance is in the public interest and should be approved. During the period of its retail electric service to the Altman mining facility (Altman facility) in Manatee County, the utility should report to the Commission on an annual basis regarding the status of such temporary service through its conclusion. (Bennett, Redemann, Rieger)

Staff Analysis: The utility has indicated that a mining company (Mosaic Fertilizer LLC or Mosaic), to which it currently provides transmission level (69 kV) retail service in Hillsborough County, needs electric service at its Altman facility in rural northern Manatee County. A map and legal description of the Altman facility are included in Attachment A. The location of the Altman facility is currently in an area served by Peace River Electric Cooperative, Inc. (PRECO). However, PRECO does not have facilities in place to provide the necessary service. According to the utility's petition, Mosaic has indicated that it has a pressing need to commence taking electric service at the Altman facility at the earliest possible date to accommodate its phosphate mining operations.

The petition indicates that the relevant Commission approved agreements, referred to in the Case Background, and the provisions of Chapter 366, Florida Statutes, contemplate the consideration of good engineering practices and the avoidance of uneconomic duplication of generation, transmission and distribution facilities. The adjacent utilities, Florida Power & Light Company (FPL), PRECO, and Progress Energy Florida, Inc. (Progress), agree that TECO should be authorized to serve the Altman facility pursuant to the proposed variance. Included with the petition (Attachment A) are the signed consent statements of FPL, PRECO, and Progress recommending that TECO's petition be approved. These stipulations point out that the relief requested by TECO in its petition is economically sound for all affected persons and consistent with good engineering practices.

TECO can provide immediate electric service to the Altman facility from an existing meter located within TECO's electric service territory just over the Manatee/Hillsborough County border in Hillsborough County. This facility currently supplies service to Mosaic's Four Corners Plant which processes phosphate ore. TECO's existing meter is located approximately 3.5 miles from the Altman facility. Mosaic will be responsible for constructing a 69 kV transmission line from the Altman facility and tying into Mosaic's existing 69 kV line which is fed from the existing TECO meter. TECO has indicated that it will not be necessary for it to invest in any additional facilities to accommodate this project.

The petition states that service to the Altman facility will be temporary. Mosaic has indicated to TECO that it expects to require the provision of electric service for a period of several years. TECO is prepared to provide service as long as necessary. TECO commits to report to the Commission on an annual basis regarding the status of such temporary service to the Altman facility through the duration of the service.

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Based on the above, staff recommends that TECO's petition for expedited approval of a temporary territorial variance is in the public interest and should be approved. During the period of its retail electric service to the Altman mining facility in Manatee County, the utility should report to the Commission on an annual basis regarding the status of such temporary service through its conclusion.

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Issue 2: Should this docket be closed?

Recommendation: If no person whose substantial interests are affected files a protest to the Commission's proposed agency action order within 21 days, the docket may be closed upon issuance of a consummating order. (Bennett)

Staff Analysis: If no person whose substantial interests are affected files a protest to the Commission's proposed agency action order within 21 days, the docket may be closed upon issuance of a consummating order.

ORIGINAL

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition of Tampa Electric)
Company for expedited approval of)
temporary territorial variance.)
_____)

DOCKET NO. 070546-EI
FILED: July 30, 2007

**TAMPA ELECTRIC COMPANY'S PETITION
FOR EXPEDITED APPROVAL OF TEMPORARY TERRITORIAL VARIANCE**

Tampa Electric Company ("Tampa Electric" or "the company") hereby petitions the Florida Public Service Commission ("the Commission") for expedited approval of a temporary territorial variance to enable Tampa Electric to provide retail electric service to a customer located outside Tampa Electric's Commission approved service territory and, as grounds therefor, says:

1. The name, address, telephone number and facsimile number of the petitioner are:

Tampa Electric Company
Post Office Box 111
Tampa, FL 33601
(813) 228-4111
(813) 228-1770 (facsimile)

2. Tampa Electric is an investor-owned public utility subject to the jurisdiction of the Commission under Chapter 366, Florida Statutes.

3. Any pleadings, motions, notices, orders or other documents required to be served upon the petitioner or filed by any party to this proceeding should be served upon the following individuals:

Paula Brown
Administrator, Regulatory Coordination
Tampa Electric Company
Post Office Box 111
Tampa, FL 33601
(813) 228-1444
(813) 228-1770 (fax)

Lee L. Willis
James D. Beasley
Ausley & McMullen
Post Office Box 391
Tallahassee, FL 32302
(850) 224-9115
(850) 222-7952 (fax)

DOCUMENT NUMBER-DATE

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4. Mosaic Fertilizer LLC ("Mosaic") has indicated that it needs electric service at its Altman mining facility ("Altman facility"), located in rural northern Manatee County, Florida. A map and legal description of the Altman facility are attached hereto as Exhibits "A" and "B", respectively. The facility in question will soon commence operations as an industrial phosphate mining operation located in a portion of Manatee County not presently served by any electric utility. The Altman facility requires transmission level retail electric service.

5. Certain existing Commission approved electric utility territorial agreements are relevant to the provision of electric service to the Altman facility. The first is a territorial agreement by and between Tampa Electric and Florida Power & Light Company ("FPL"). Under this agreement, the Altman facility is located in FPL's service territory, although FPL does not presently have transmission facilities readily available with which to serve the Altman facility's needs. There is also a Commission approved territorial agreement by and between Tampa Electric and Peace River Electric Cooperative, Inc. ("PRECO"). Under this agreement the Altman facility is located within PRECO's service territory. However, PRECO does not have facilities in place to provide the requested service and is unable to provide the requested service in an economically feasible manner. Tampa Electric can provide immediate electric service to the Altman facility from an existing meter located just over the Manatee/Hillsborough County border in Hillsborough County, within Tampa Electric's service territory. The third Commission approved territorial agreement to be considered is between PRECO and Progress Energy Florida, Inc. ("Progress"). That agreement addresses the relative rights and obligations as between PRECO and Progress regarding the provision of retail electric service in six Florida counties, including that portion of Manatee County where the Altman facility is located.

6. The various territorial agreements and the provisions of Chapter 366, Florida Statutes, contemplate the consideration, among other things, of good engineering practices and

the avoidance of further uneconomic duplication of generation, transmission and distribution facilities in determining the appropriate provision of electric service by an electric utility to an applicant therefor.

7. After carefully considering the existing Commission approved territorial agreements, the relative proximity of transmission facilities of FPL, PRECO, Progress and Tampa Electric to the Altman facility and other facts pertaining to the Altman facility's current need for electric service, FPL, PRECO and Progress have concluded that the relief requested in this petition is economically sound for all affected persons and consistent with good engineering practices. Accordingly, FPL, PRECO and Progress agree that Tampa Electric should be authorized to serve the Altman facility pursuant to the temporary territorial variance requested in this petition. See consents signed on behalf of FPL, PRECO and Progress, attached hereto collectively as Exhibit "C" and made a part hereof.

8. FPL, PRECO and Progress have agreed to Tampa Electric providing service to the Altman facility from the Tampa Electric meter in Hillsborough County without the need for any payment or other compensation to FPL, PRECO or Progress or any other party. FPL, PRECO and Progress will receive some benefit from the approval of this petition in that they will avoid having to attempt to provide retail electric service to the Altman facility at a time when that effort would be uneconomic and logistically challenging.

9. Mosaic indicates that although its Altman mining operations will be, by definition, temporary, it expects to require the provision of electric service to the Altman facility for a period of several years. Tampa Electric is prepared to provide that service during the period that Altman mining operations continue and to report to the Commission on an annual basis regarding the status of such temporary service through its conclusion.


10. Mosaic has indicated it has a pressing need to commence taking electric service at the Altman facility at the earliest possible date to accommodate its phosphate mining operations at that facility. To accommodate Mosaic's needs Tampa Electric requests that the Commission take up this petition at the earliest possible date.

11. The relief requested herein is of a temporary nature and does not require the amendment of any Commission approved territorial agreement.

WHEREFORE, Tampa Electric Company respectfully requests that the Commission take expedited action to authorize Tampa Electric to provide temporary retail electric service outside the company's Commission approved service territory to Mosaic's Altman facility located in northern Manatee County for the period that such mining operations continue. Tampa Electric further commits to report to the Commission on an annual basis regarding Tampa Electric's continuing provision of such temporary electric service through the duration thereof.

DATED this 30th day of July 2007.

Respectfully submitted,



LEE L. WILLIS
JAMES D. BEASLEY
Ausley & McMullen
Post Office Box 391
Tallahassee, Florida 32302
(850) 224-9115

ATTORNEYS FOR TAMPA ELECTRIC COMPANY

Exhibit "A"

Map

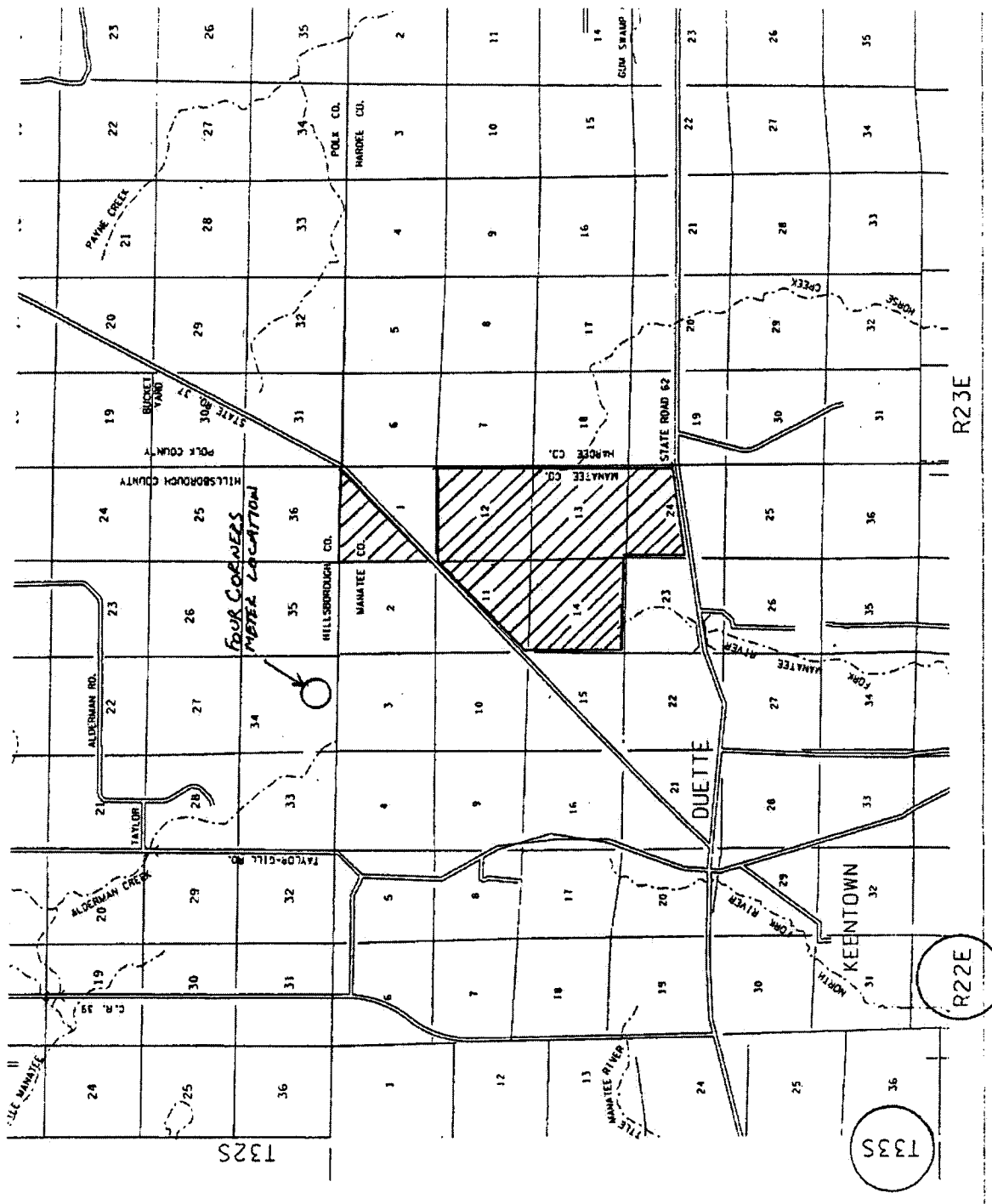


Exhibit "B"
Legal Description

Altman Legal Description In Township 33 South, Range 22 East, Manatee Co:

Section 1: (Jameson Tract)

Section 1: All that part lying north and west of Brewster - Parrish Road ("SR 37").

Parcel 4: (Altman Tract)

Section 11: All that part lying south and east (or southeasterly) of SR 37.

Section 12: All that part lying south and east (or southeasterly) of SR 37.

Section 13: All, LESS the following described parcel: Begin at the Southwest corner of Section 13, thence proceed N 00°08'22" W, along the west line of the Section, 703.32 feet to the Watershed Boundary Line between the Horse Creek and East Fork Manatee River Basins; thence S 70°39'27" E, along the Watershed Boundary Line, 656.33 feet; thence N 54°20'37" E, 808.35 feet; thence N 87°01' 51" E, 1471.24 feet; thence S 80°42'49" E, 1522.00 feet; thence S 35°44'47" W, 453.75 feet; thence S 12° 20' 01" E, 368.48 feet; thence S 47°27'45" W, 120.57 feet to the south line of the Section; thence N 89°39'59" W, along the south line of the Section, 1329.46 feet to the southeast corner of the SW 1/4 of the Section; thence N 89°41'26" W, along the south line of the Section, 2641.09 feet to the POINT OF BEGINNING.

Section 14: All, LESS the following described parcel: Begin at the southeast corner of Section 14, thence proceed N 88°49'39" W, along the south line of the Section, 2612.74 feet to the southwest corner of the SE 1/4 of the Section; thence N 88°49'12" W, along the south line of the Section, 2612.69 feet to the southwest corner of the section; thence N 00°09'14" E, along the west line of the Section, 5259.60 feet to the northwest corner thereof; said point also being on the Watershed Boundary Line between the Horse Creek and East Fork Manatee River basins; thence S 62°44'01" E, along the Watershed Boundary Line 911.05 feet; thence S 39°26'30" E, 2045.00 feet; thence S 09°12'34" E, 1639.06 feet; thence S 44°35' 27" E, 830.69 feet; thence N 70°36'14" E, 1118.03 feet; thence S 37°25'01" E, 701.66 feet; thence S 70°39'27" E, 819.34 feet to the east line of the Section; thence S 00°08'22" E, along the east line of the Section, 703.32 feet to the POINT OF BEGINNING.

Section 24: All that part lying north of Parrish - Wauchula Road ("SR 62") LESS the following described parcel: Begin at the Northwest corner of Section 24, thence proceed S 89°41'26" E, along the north line of the Section, 2641.09 feet to the northeast corner of the NW 1/4 of the Section; thence S 89°39'59" E, along the north line of the Section, 1329.46 feet to the Watershed Boundary Line between the Horse Creek and East Fork Manatee River Basins; thence S 47°27'45" W along the Watershed Boundary Line, 937.28 feet; thence S 47°27'45" W, 1057.84 feet; thence S 44°00'59" W, 862.70 feet; thence S 47°00'11" W, 985.07 feet; thence S 69°40'57" E, 1180.90 feet to the north right-of-way line of State Road 62; thence S 80°20'42" W, along the north right-of-way of State Road 62, 54.02 feet; thence S 81°43'26" W, 199.90 feet; thence S 83°26'32" W, 100.04 feet; thence S 84°35'11" W, 100.12 feet; thence S 82°35'00" W, 200.02 feet; thence S 82°35'00" W, 200.02 feet; thence S 81°43'26" W, 499.61 feet; thence S 81°22'48" W, 500.01 feet; thence S 81°49'02" W, 499.49 feet to the west line of the Section; thence N 00°44'51" E, along the west line of the Section, 763.16 feet to the southwest corner of the NW 1/4 of the Section; thence N 00°41'53" E, along the west line of the Section, 2638.46 feet to the POINT OF BEGINNING.

Exhibit "C"

FPL Consent
PRECO Consent
PROGRESS Consent

**FLORIDA POWER & LIGHT COMPANY'S CONSENT TO APPROVAL
OF TAMPA ELECTRIC COMPANY'S PETITION FOR
EXPEDITED APPROVAL OF TEMPORARY TERRITORIAL VARIANCE**

Florida Power & Light Company ("FPL"), by and through its undersigned counsel or representative, states as follows:


1. FPL has read the Petition for Expedited Approval of Temporary Territorial Variance filed on behalf of Tampa Electric Company ("Tampa Electric") wherein Tampa Electric has asked the Florida Public Service Commission to authorize Tampa Electric to provide temporary retail electric service to Mosaic Fertilizer LLC's Altman facility located in northern Manatee County, Florida.

2. FPL believes that the relief requested by Tampa Electric in its Petition is economically sound for all affected persons and consistent with good engineering practices.

3. Accordingly, FPL hereby consents to the approval of the temporary territorial variance requested by Tampa Electric to serve the Altman facility located in northern Manatee County, Florida, as more particularly described in Tampa Electric's Petition for approval of such temporary territorial variance.

DATED this 11th day of June 2007.

FLORIDA POWER & LIGHT COMPANY

By: 
Natalie F. Smith, Esq.
Counsel for FPL

**PEACE RIVER ELECTRIC COOPERATIVE, INC.'S CONSENT TO
APPROVAL OF TAMPA ELECTRIC COMPANY'S PETITION FOR
EXPEDITED APPROVAL OF TEMPORARY TERRITORIAL VARIANCE**

Peace River Electric Cooperative, Inc. ("PRECO"), by and through its undersigned counsel or representative, states as follows:

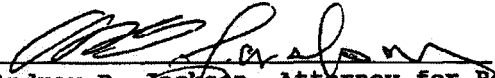
1. PRECO has read the Petition for Expedited Approval of Temporary Territorial Variance filed on behalf of Tampa Electric Company ("Tampa Electric") wherein Tampa Electric has asked the Florida Public Service Commission to authorize Tampa Electric to provide temporary retail electric service to Mosaic Fertilizer LLC's Altman facility located in northern Manatee County, Florida.

2. PRECO believes that the relief requested by Tampa Electric in its Petition is economically sound for all affected persons and consistent with good engineering practices.

3. Accordingly, PRECO hereby consents to the approval of the temporary territorial variance requested by Tampa Electric to serve the Altman facility located in northern Manatee County, Florida, as more particularly described in Tampa Electric's Petition for approval of such temporary territorial variance.

DATED this 29th day of May 2007.

PEACE RIVER ELECTRIC COOPERATIVE, INC.

By: 
Andrew B. Jackson, Attorney for Peace
River Electric Cooperative, Inc.
Florida Bar No. 0038826

**PROGRESS ENERGY FLORIDA, INC.'S CONSENT TO
APPROVAL OF TAMPA ELECTRIC COMPANY'S PETITION FOR
EXPEDITED APPROVAL OF TEMPORARY TERRITORIAL VARIANCE**

Progress Energy Florida, Inc. ("Progress"), by and through its undersigned counsel or representative, states as follows:

1. Progress has read the Petition for Expedited Approval of Temporary Territorial Variance filed on behalf of Tampa Electric Company ("Tampa Electric") wherein Tampa Electric has asked the Florida Public Service Commission to authorize Tampa Electric to provide temporary retail electric service to Mosaic Fertilizer LLC's Altman facility located in northern Manatee County, Florida.

2. Progress believes that the relief requested by Tampa Electric in its Petition is economically sound for all affected persons and consistent with good engineering practices.

3. Accordingly, Progress hereby consents to the approval of the temporary territorial variance requested by Tampa Electric to serve the Altman facility located in northern Manatee County, Florida, as more particularly described in Tampa Electric's Petition for approval of such temporary territorial variance.

DATED this 27 day of JULY 2007.

PROGRESS ENERGY FLORIDA, INC.

By: 