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Subject: Filing: Docket 070001-EI
Attachments: Motion for Expedited Consideration.pdf



Motion for
Expedited Consideration

Attached for e-filing and service on behalf of Progress Energy Florida Inc. is Progress Energy Florida, Inc.'s Motion for Expedited Consideration of its Motion to Establish Separate "Spin-Off" Docket to Examine Certain Coal Purchase Transactions and to Stay Separate Docket Pending Outcome of Motion for Reconsideration, or, in the Alternative, Motion for Extension of Time to File Rebuttal Testimony in Response to OPC Testimony [6 pages].

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FPSC-COMMISSION CLERK

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Fuel and Purchased Power Cost
Recovery Clause and Generating
Performance Incentive Factor

DOCKET NO.: 070001-EI

Filed: October 17, 2007

**PROGRESS ENERGY FLORIDA, INC.'S MOTION FOR EXPEDITED
CONSIDERATION OF ITS MOTION TO ESTABLISH SEPARATE "SPIN-OFF"
DOCKET TO EXAMINE CERTAIN COAL PURCHASE TRANSACTIONS AND TO
STAY SEPARATE DOCKET PENDING OUTCOME OF MOTION FOR
RECONSIDERATION, OR, IN THE ALTERNATIVE, MOTION FOR EXTENSION
OF TIME TO FILE REBUTTAL TESTIMONY IN RESPONSE TO OPC TESTIMONY**

Progress Energy Florida, Inc. ("PEF" or the "Company") moves the Florida Public Service Commission ("FPSC" or the "Commission") for expedited consideration of its Motion to Establish Separate "Spin-Off" Docket ("Spin-Off Docket Motion"), filed October 4, 2007, or in the alternative, for an extension of time to October 29, 2007 to file testimony in response to the Office of Public Counsel's ("OPC's") testimony filed October 1, 2007 (received October 2, 2007). In support of this motion, PEF states:

1. In this proceeding, like any other fuel cost recovery clause proceeding, the Commission will consider the electric utilities' pending petitions for approval of their fuel clause cost recovery true-up amounts for the period January 2007 through December 2007, as well as approval of their fuel clause recovery factors. OPC, in anticipation of a final written order in Docket Number 060658-EI, filed the intervener testimony of Robert Sansom on October 1, 2007 to address certain issues regarding coal purchases in 2006. As PEF noted in its Spin-Off Docket

Motion, at the time OPC filed this testimony, the final order had not been issued.¹ That order instructs PEF to provide testimony, in the 2007 fuel docket, regarding the prudence of its coal purchases for 2006. For the other reasons provided in PEF's Spin-Off Docket Motion, PEF respectfully moved the Commission to establish a separate docket to consider these issues.

2. According to the Order Establishing Procedure for Docket Number 070001-EI, PEF must file its rebuttal testimony to Mr. Sansom's testimony by October 22, 2007. PEF filed its Spin-Off Docket Motion on October 4, 2007. OPC filed its response on October 11, 2007. In that response, OPC agreed with establishing a separate docket. To date, no order has been issued on the Spin-Off Docket Motion. PEF therefore respectfully requests expedited consideration of its Spin-Off Docket Motion.

3. In the alternative, and pursuant to Rule 28-106.303(3), F.A.C., PEF requests an extension of time in which to file rebuttal testimony, to October 29, 2007. If the Commission denies PEF's Spin-Off Docket Motion, PEF will need the additional time to analyze the issues raised in Mr. Sansom's testimony. Upon receipt of Mr. Sansom's testimony, PEF promptly prepared and filed the Spin-Off Docket Motion. Given OPC's response to the Spin-Off Docket Motion, in which OPC agreed to establishing a separate docket, PEF anticipates that this Commission will grant the motion and establish a separate docket. If the Commission grants the motion, there will be no need for PEF to file rebuttal testimony by October 22, 2007. Further, the testimony filed by OPC's witness involves issues and claims, some of which are beyond and inconsistent with the Commission's order, Order No. PSC-07-0816-FOF-EI, that require additional time for PEF to prepare responsive testimony. Indeed, PEF did not receive the

¹ The final order in Docket Number 060658-EI, Order Number PSC-07-0816-FOF-EI, was issued on October 10, 2007.

Commission's final order in Docket 060658-EI until October 10, 2007, just 12 days before its rebuttal testimony is due. PEF therefore requests a brief extension to October 29, 2007 to prepare adequate rebuttal testimony. This extension is not requested for delay but instead is requested to provide PEF a fair and adequate opportunity to rebut the testimony offered by OPC. PEF has thus demonstrated good cause as to why PEF needs this extension of time to file testimony, and it respectfully requests such an extension.

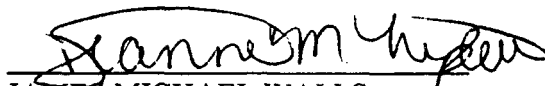
4. Currently PEF must file rebuttal testimony on October 22, 2007. PEF is requesting only a one-week extension of time. The hearing for the fuel docket is not scheduled until November 6-8. The Order Establishing Procedure sets the discovery deadline as October 30, 2007, but PEF will agree to extend that deadline for the purpose of allowing any party to depose its witness(es), upon proper request.

5. Given the nature of the expedited relief requested in this motion, PEF has sent this motion by email to OPC counsel and Staff counsel, but has not yet had an opportunity to determine whether they will oppose this motion. PEF will file a supplemental notice advising the Commission of those positions, if and when it obtains this information from Staff counsel and OPC counsel.

WHEREFORE, for all of the foregoing reasons, PEF requests the Commission grant its motion for expedited consideration of its Spin-Off Docket Motion, or in the alternative, grant an extension of time to October 29, 2007 to file testimony in response to OPC's testimony.

Respectfully submitted this 17th day of October, 2007.

R. ALEXANDER GLENN
JOHN BURNETT
PROGRESS ENERGY SERVICE

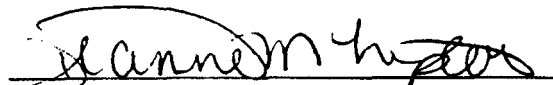

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of foregoing Notice of Service has been furnished by electronic mail and U.S. Mail on this 17th day of October, 2007 to all counsel as listed on the attached service list.


Attorney

DOCKET NO. 070001-EI
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