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**Sent:** Thursday, August 04, 2011 12:07 PM  
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**Subject:** Docket No. 100437-EI  
**Attachments:** PEF's 2nd Motion to Establish Case Schedule (8-4-11).pdf

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Docket No.: 100437-EI

In re: Examination of the outage and replacement fuel/power costs  
associated with the CR3 steam generator replacement project,  
by Progress Energy Florida, Inc.

The attached document for filing is Progress Energy Florida, Inc.'s Second Motion  
to Establish Case Schedule.

This filing consists of 5 pages.

This filing is made on behalf of Progress Energy Florida, Inc.

DOCUMENT NUMBER-DATE

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FPSC-COMMISSION CLERK

8/4/2011

**BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

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In re: Examination of the outage and replacement fuel/power costs associated with the CR3 steam generator replacement project, by Progress Energy Florida, Inc.

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DOCKET NO. 100437-EI

Submitted for Filing: August 4, 2011

**PROGRESS ENERGY FLORIDA, INC.'S  
SECOND MOTION TO ESTABLISH CASE SCHEDULE**

Progress Energy Florida, Inc. ("PEF or the "Company"), pursuant to Rules 28-106.211 and 28-106.204, Florida Administrative Code ("F.A.C."), hereby moves to separate the issues in this docket into distinct phases and to establish a case schedule in this proceeding. In support of this motion, PEF states as follows:

1. In Order No. PSC-10-0632-PCO-EI, issued October 25, 2010, the Florida Public Service Commission ("FPSC" or "Commission") established this docket to review the actions at PEF's CR3 nuclear power plant which have resulted in an extended outage and the need for PEF to purchase replacement power due to the outage. As stated in the Order "...the purpose of the docket will be to enable the Commission and all interested parties to review facts and information related to the Crystal River Unit 3 (CR3) steam generator replacement project and the subsequent delamination that was discovered during CR3's Refueling Outage 16."

2. On April 4, 2011, PEF filed a motion to bifurcate this proceeding into two phases. Specifically, PEF moved the Commission to establish the first phase of issues to include the inception of the SGR project execution through the time that PEF discovered the second delamination event on March 14, 2011. PEF further moved the Commission to create a second phase of issues that would encompass the analysis of the second delamination event to the resolution of the second delamination event. In Order PSC-11-02-8-PCO-EI, the Pre-Hearing

Officer denied PEF's Motion to Bifurcate. In doing so, the Pre-Hearing Officer stated that "I find that it is premature to make a decision on bifurcation of this proceeding."

3. On July 14, 2011, the Pre-Hearing Officer held a status conference to discuss procedural and timing issues in this docket. During that status conference, the Pre-Hearing Officer gave the parties pointed direction on his view of the procedural and timing issues in this matter. Specifically, he stated:

*On April 26th, I denied Progress' motion to bifurcate, because I felt at that time it was premature due to the lack of information at that time. Since that point, after the second delamination, there has been additional information. And the June 27th filing on the status update, I feel that we can move forward now in determining potential hearing schedules and including the bifurcation of the docket.*

The Pre-Hearing Officer also made clear that he had identified three distinct phases in this docket and stated:

*So the three distinct phases that I have identified is one, the prudence of Progress' actions leading up to the second delamination event on March 14th, 2011. And these are in no particular order. The second would be the prudence of Progress' decision to repair CR-3 versus decommissioning. And the third would be the prudence of Progress' actions from the second delamination to when the time CR-3 is returned to service.*

Finally, the Pre-Hearing Officer provided his thoughts on dividing the hearing in this matter into distinct phases and stated:

*Reducing the regulatory uncertainty in addressing these issues that we can address now when the information is available is one of the reasons why I wanted to look and see if there were distinct phases that we could tackle now rather than later.... If at any time we can identify very clear and distinct phases, whereas looking back we have all the information for the Commission to move forward with a hearing and make a decision, because as of now reviewing the information within the docket, I am somewhat uncomfortable with waiting until 2015 and looking back and determining prudence of actions when we could have made that decision with the information that was available two or three years prior.*

4. For all the reasons stated by the Pre-Hearing Officer, PEF moves the Commission to divide the hearing of this matter into the three distinct phases that he identified during the July

14, 2011 status conference and to set a case schedule in accordance with that division.

Specifically, PEF requests that the Commission set “Phase 1” of this proceeding (i.e., the prudence of PEF’s actions leading up to and including the March 14, 2011 delamination) on the following schedule:

From the date of the Order granting this Motion:

30 days	PEF files petition and direct testimony regarding Phase 1
90 days	Intervener testimony regarding Phase 1
120 days	Staff testimony regarding Phase 1
150 days	Rebuttal testimony regarding Phase 1
180 days	Phase 1 ready for hearing

Further, PEF requests that the Commission retain the discretion to set the hearing schedule for Phase 2 (i.e., repair versus retire decision) and Phase 3 (i.e., PEF’s actions following the second delamination through ultimate disposition of the plant) at the appropriate time when those issues are ripe for a hearing.

5. Proceeding in this manner allows PEF, the intervenors, and the Commission to proceed with a prudence determination on issues that can be now resolved in a timely manner while the evidence is not stale and the facts are available to all parties and the Commission. This is the most efficient use of the Commission’s resources. It allows the Commission to focus on past issues that can be resolved while separating out issues that are still developing due to on-going events and circumstances for monitoring and resolution in a separate phase when those events and circumstances are over. The intervening parties will obtain a timely hearing on issues that are ready to be resolved while full discovery remains open on all other issues.

6. The presiding officer has the authority to “issue any order necessary to effectuate discovery, to prevent delay, and to promote the just, speedy, and inexpensive determination of all aspects of the case, including bifurcating the proceeding.” *See* Rule 28-106.211, F.A.C. The

Commission has routinely utilized this authority to promote a just and speedy determination of matters before it. *See, e.g.*, Order No. PSC-06-1059-PCO-EI; Order No. PSC-07-0232-PCO-EI; Order No. PSC-05-0433-PCO-TP.

7. Pursuant to Rule 28-106.204(3), F.A.C., PEF has today conferred or attempted to confer with all parties of record and has not been able to obtain positions on this motion at this time.

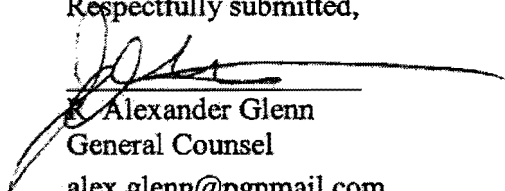
WHEREFORE, PEF respectfully moves for the Commission to enter an Order:

- (1) Separating this proceeding into separate phases in the manner discussed above;
- and
- (2) Set "Phase 1" of this proceeding (i.e., the prudence of PEF's actions leading up to the March 14, 2011 delamination) on the following schedule:

From the date of the Order granting this Motion:

30 days	PEF files petition and direct testimony regarding Phase 1
90 days	Intervener testimony regarding Phase 1
120 days	Staff testimony regarding Phase 1
150 days	Rebuttal testimony regarding Phase 1
180 days	Phase 1 ready for hearing

Respectfully submitted,



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CERTIFICATE OF SERVICE

I HEREBY CERTIFY a true and correct copy of the foregoing has been furnished to counsel and parties of record as indicated below via electronic and U.S. Mail this 4<sup>th</sup> day of August, 2011.

  
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