

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

ATOMIC SAFETY AND LICENSING BOARD

Before Administrative Judges:

Alex S. Karlin, Chairman
Dr. Anthony J. Baratta
Dr. William M. Murphy

In the Matter of

PROGRESS ENERGY FLORIDA, INC.

(Combined License Application for Levy County
Nuclear Power Plant, Units 1 and 2)

Docket No. 52-029-COL, 52-030-COL

ASLBP No. 09-879-04-COL-BD01

April 3, 2009

MEMORANDUM AND ORDER
(Setting Oral Argument)

The Board will hear oral argument on the admissibility of proposed contentions under 10 C.F.R. § 2.309, commencing at 1:00 pm Eastern Daylight Time (EDT) on Monday, April 20, 2009, and continuing at 10:00 am EDT on Tuesday, April 21, 2009. The oral argument will be held in Courtroom A in the Levy County Courthouse of the Eighth Judicial Circuit Court of the State of Florida, located at 355 South Court Street in Bronson, Florida. Only duly-authorized representatives of the Petitioners (The Green Party of Florida, The Ecology Party of Florida, and the Nuclear Information and Resource Service), Progress Energy Florida, Inc. (PEF), and the staff of the Nuclear Regulatory Commission (NRC Staff) who have entered an appearance pursuant to 10 C.F.R. § 2.314 will be entitled to participate. The Board plans to adjourn each day by 6:00 pm EDT.

The oral argument will proceed as follows. First, we will hear a short opening statement, limited to ten minutes, from each participant. Second, the Board will hear argument on the contentions listed below, in the sequence specified. Third, for those contentions not listed below, the Board currently contemplates that no oral argument will be necessary or allowed. In

addition, the Board currently contemplates that it will not need to hear oral argument on the standing of the Petitioners.¹ Fourth, we will entertain a short closing statement, limited to five minutes, from each participant. The sequence will be as follows:

1. Call to order, introductory remarks.
2. Opening statements.
3. Contention 4 (all parts).
4. Contention 3.
5. Contention 5.
6. Contentions 6 and 12 combined.
7. Contentions 7 and 8 combined.
8. Contentions 9-11 and 4(o) combined.
9. Closing statements.
10. Adjourn.

For each contention (or group of contentions) listed above, Petitioners (collectively) will have a total of twenty minutes, PEF will have fifteen minutes, and the NRC Staff will have ten minutes. Five minutes of the Petitioners' time will be reserved for rebuttal, unless, at the outset of argument on that contention, the Petitioners choose an alternative allocation (up to a maximum of ten minutes rebuttal). All time periods include the time for responding to questions from the Board. The only exception to the foregoing is Contention 4. Given the substantial number of subparts to Contention 4, the Board is allocating two hours to this contention. Petitioners will have a total of fifty minutes. PEF will have fifty minutes and the NRC Staff will

¹ Regardless of the listing of specific contentions for argument, the participants should be prepared to answer questions on all contentions and issues, including those not specifically listed in this Order and those on which the Board currently does not contemplate oral argument or questions.

have twenty minutes. Twenty minutes of the Petitioners' time will be reserved for rebuttal, unless the Petitioners choose an alternative allocation.

In formulating their arguments, participants should keep in mind that the Board will have read their pleadings. Participants should focus on the critical points in controversy, as those issues have emerged in the pleadings. The main purpose of the oral argument is to allow the Board to clarify its understanding of legal and factual points to assist it in deciding the issues presented by the pleadings. Thus, the participants should expect that their oral argument will be interspersed with frequent questions from the Board. Such questioning is part of, and does not expand, a participant's allotted time. Therefore, the parties' oral arguments should be kept short, and the parties should not expect that they will have the entire time for prepared argument.

Given that the sole purpose of this proceeding is to evaluate the admissibility of the contentions and the legal issues presented in the participants' pleadings, oral argument will only be heard from the representatives of the participants. However, members of the public and representatives of the media are welcome to attend and observe this proceeding. As this is an adjudicatory proceeding, the Board intends to conduct an orderly hearing. Signs, banners, posters, and displays are prohibited in accordance with NRC policy. See Procedures for Providing Security Support for NRC Public Meetings/Hearings, 66 Fed. Reg. 31,719 (June 12, 2001). All interested persons should arrive at least fifteen minutes early so as to allow sufficient time to pass through security screening.

Oral limited appearance statements in accord with 10 C.F.R. § 2.315(a) will not be heard at this time. If contentions are ultimately admitted, then the Board may hear oral limited appearance statements regarding those contentions at a later date. In the interim, interested individuals may submit written limited appearance statements related to the issues in this proceeding. Such written statements may be submitted at any time and should be sent either

by (1) mail to the Office of the Secretary, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555-0001, Attention: Rulemakings and Adjudications Staff, with a copy to the Chairman of this Licensing Board at Mail Stop T-3E15, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555-0001; (2) e-mail to the Office of the Secretary at hearingdocket@nrc.gov, with a copy to this Board (c/o Megan Wright, megan.wright@nrc.gov); or (3) fax to the Office of the Secretary at 301-415-1101 (facsimile verification number: 301-415-1966), with a copy to the Board (c/o Megan Wright) at 301-415-5599 (facsimile verification number: 301-415-7550).

It is so ORDERED.

FOR THE ATOMIC SAFETY
AND LICENSING BOARD²

/RA/

Alex S. Karlin
ADMINISTRATIVE JUDGE

Rockville, Maryland
April 3, 2009

² Copies of this order were sent this date by Internet e-mail transmission to counsel or a representative for (1) Progress Energy Florida, Inc.; (2) Nuclear Information and Resource Service, The Green Party of Florida and The Ecology Party of Florida; and (3) the NRC Staff.

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

In the Matter of)	
)	
PROGRESS ENERGY FLORIDA, INC.)	Docket Nos. 52-029-COL
)	and 52-030-COL
(Levy County Nuclear Power Plant)	
Units 1 and 2))	
)	
(Combined License))	

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing LB MEMORANDUM AND ORDER (SETTING ORAL ARGUMENT) have been served upon the following persons by Electronic Information Exchange.

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Docket Nos. 52-029-COL and 52-030-COL
LB MEMORANDUM AND ORDER (SETTING ORAL ARGUMENT)

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Docket Nos. 52-029-COL and 52-030-COL
LB MEMORANDUM AND ORDER (SETTING ORAL ARGUMENT)

[Original signed by Evangeline S. Ngbea]
Office of the Secretary of the Commission

Dated at Rockville, Maryland
this 3rd day of April 2009