

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.<sup>1</sup> 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

---

<sup>1</sup> 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](mailto:hearingdocket@nrc.gov), with a copy to this Board (c/o Megan Wright, [megan.wright@nrc.gov](mailto: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 BOARD<sup>2</sup>

*/RA/*

---

Alex S. Karlin  
ADMINISTRATIVE JUDGE

Rockville, Maryland  
April 3, 2009

---

<sup>2</sup> 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.

Office of Commission Appellate  
Adjudication  
U.S. Nuclear Regulatory Commission  
Mail Stop: O-16C1  
Washington, DC 20555-0001  
E-mail: [ocaamail@nrc.gov](mailto:ocaamail@nrc.gov)

Office of the Secretary of the Commission  
U.S. Nuclear Regulatory Commission  
Mail Stop O-16C1  
Washington, DC 20555-0001  
Hearing Docket  
E-mail: [hearingdocket@nrc.gov](mailto:hearingdocket@nrc.gov)

Atomic Safety and Licensing Board Panel  
U.S. Nuclear Regulatory Commission  
Mail Stop T-3F23  
Washington, DC 20555-0001

Pillsbury, Winthrop, Shaw, Pittman, LLP  
2300 N. Street, N.W.  
Washington, DC 20037-1122  
Counsel for Progress Energy Florida, Inc.  
John H. O'Neill, Esq.  
Robert B. Haemer, Esq.  
Ambrea Watts, Esq.  
Alison Crane, Esq.  
Michael G. Lepre, Esq.  
Blake J. Nelson, Esq.  
Jason P. Parker, Esq.  
Stefanie M. Nelson, Esq.

Alex S. Karlin, Chair  
Administrative Judge  
E-mail: [ask2@nrc.gov](mailto:ask2@nrc.gov)

E-mail:  
[john.o'neill@pillsburylaw.com](mailto:john.o'neill@pillsburylaw.com)  
[robert.haemer@pillsburylaw.com](mailto:robert.haemer@pillsburylaw.com);  
[ambrea.watts@pillsburylaw.com](mailto:ambrea.watts@pillsburylaw.com)  
[alison.crane@pillsburylaw.com](mailto:alison.crane@pillsburylaw.com)  
[michael.lepre@pillsburylaw.com](mailto:michael.lepre@pillsburylaw.com)  
[blake.nelson@pillsburylaw.com](mailto:blake.nelson@pillsburylaw.com)  
[jason.parker@pillsburylaw.com](mailto:jason.parker@pillsburylaw.com)  
[stefanie.nelson@pillsburylaw.com](mailto:stefanie.nelson@pillsburylaw.com)

Anthony J. Baratta  
Administrative Judge  
E-mail: [ajb5@nrc.gov](mailto:ajb5@nrc.gov)

William M. Murphy  
Administrative Judge  
E-mail: [William.murphy@nrc.gov](mailto:William.murphy@nrc.gov)

Megan Wright, Law Clerk  
E-mail: [megan.wright@nrc.gov](mailto:megan.wright@nrc.gov)

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

Office of the General Counsel  
 U.S. Nuclear Regulatory Commission  
 Mail Stop O-15D21  
 Washington, DC 20555-0001  
 Kathryn L. Winsberg, Esq.  
 Sara Brock, Esq.  
 Jody Martin, Esq.  
 Laura Goldin, Esq.  
 Michael Spencer, Esq.  
 Joseph Gilman, Paralegal  
 E-mail:  
[kathryn.winsberg@nrc.gov](mailto:kathryn.winsberg@nrc.gov)  
[seb2@nrc.gov](mailto:seb2@nrc.gov)  
[jcm5@nrc.gov](mailto:jcm5@nrc.gov)  
[laura.goldin@nrc.gov](mailto:laura.goldin@nrc.gov)  
[michael.spencer@nrc.gov](mailto:michael.spencer@nrc.gov)  
[jsq1@nrc.gov](mailto:jsq1@nrc.gov)

Nuclear Information & Resource Service  
 P.O. Box 7586  
 Asheville, NC 28802  
 Mary Olson,  
 NIRS Southeast Regional Coordinator  
 E-mail: [nirs@main.nc.us](mailto:nirs@main.nc.us)

OGC Mail Center : [OGCMailCenter@nrc.gov](mailto:OGCMailCenter@nrc.gov)

Alachua County Green Party, Green  
 Party of Florida  
 P.O. Box 190  
 Alachua, FL  
 Michael Canney, Co-Chair  
 E-mail: [alachuagreen@windstream.net](mailto:alachuagreen@windstream.net)

Nuclear Information Resource Service  
 6390 Carroll Avenue, #340  
 Takoma Park, MD 20912  
 Michael Mariotte, Executive Director  
 E-mail: [nirsnet@nirs.org](mailto:nirsnet@nirs.org)

Eckert Seamans Cherin & Mellott, LLC  
 600 Grant Street, 44<sup>th</sup> Floor  
 Pittsburg, PA 15219  
 Counsel for Westinghouse Electric Co., LLC  
 Barton Z. Cowan, Esq.  
 E-mail: [teribart61@aol.com](mailto:teribart61@aol.com)

Ecology Party of Florida  
 641 SW 6 Avenue  
 Ft. Lauderdale, FL 33315  
 Cara Campbell, Chair  
 E-mail: [levynuke@ecologyparty.org](mailto:levynuke@ecologyparty.org)

State of Florida Department of Environmental  
 Protection, Office of Siting  
 3900 Commonwealth Blvd., MS 35  
 Tallahassee, FL 32399-3000  
 Michael Halpin, Program Administrator  
 Toni L. Sturtevant, Esq.  
 E-mail: [Mike.halpin@dep.state.fl.us](mailto:Mike.halpin@dep.state.fl.us)  
 E-mail: [toni.sturteveant@dep.state.fl.us](mailto:toni.sturteveant@dep.state.fl.us)

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 3<sup>rd</sup> day of April 2009