

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

July 23, 2009

ORDER

(Denying Motion to Suspend Discovery)

On July 15, 2009, Progress Energy Florida, Inc. (Progress) moved for an order suspending the obligations of the parties and the Staff to commence mandatory disclosures under 10 C.F.R. § 2.336, the Staff's duty to submit its notice under 10 C.F.R. § 2.1202(b), and the Staff's duty to produce the hearing file under 10 C.F.R. § 2.1203.¹ On July 22, 2009, the Intervenors filed an answer to this motion, supporting it in part and opposing it in part.²

¹ Progress Energy's Motion to Suspend Discovery Obligations (July 15, 2009).

² Reply From the Green Party of Florida, The Ecology Party of Florida and Nuclear Information And Resource Service to Progress Energy's Motion to Suspend Discovery Obligations (dated July 21, 2009 but filed July 22, 2009).

The motion is denied. Given that the NRC regulations prohibit all other forms of discovery in Subpart L proceedings, see 10 C.F.R. § 2.1203(d), the Board firmly believes that it is all the more imperative that the few remaining discovery obligations be promptly performed and vigorously enforced. The regulations specify the time when the mandatory disclosures, Staff notice, and Staff production of the hearing file must commence. The pendency of an appeal, however meritorious Progress believes it is, does not change these obligations.

THE ATOMIC SAFETY
AND LICENSING BOARD³

/RA/

Alex S. Karlin, Chairman
ADMINISTRATIVE JUDGE

Rockville, Maryland
July 23, 2009

³ Copies of this notice were sent this date by the agency's E-Filing system to the counsel/representatives 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) 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 ORDER (DENYING MOTION TO SUSPEND DISCOVERY) 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

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

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

E-mail:
john.oneill@pillsburylaw.com
robert.haemer@pillsburylaw.com;
ambrea.watts@pillsburylaw.com
alison.crane@pillsburylaw.com
michael.lepre@pillsburylaw.com
blake.nelson@pillsburylaw.com
jason.parker@pillsburylaw.com
stefanie.nelson@pillsburylaw.com

Anthony J. Baratta
Administrative Judge
E-mail: ajb5@nrc.gov

William M. Murphy
Administrative Judge
E-mail: William.murphy@nrc.gov

Megan Wright, Law Clerk
E-mail: megan.wright@nrc.gov

Docket Nos. 52-029-COL and 52-030-COL
LB ORDER (DENYING MOTION TO SUSPEND DISCOVERY)

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

OGC Mail Center : 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

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

Eckert Seamans Cherin & Mellott, LLC
600 Grant Street, 44th Floor
Pittsburg, PA 15219
Counsel for Westinghouse Electric Co., LLC
Barton Z. Cowan, Esq.
E-mail: teribart61@aol.com

Ecology Party of Florida
641 SW 6th Avenue
Ft. Lauderdale, FL 33315
Cara Campbell, Chair
Gary Hecker
[E-filing participants using nirs@main.nc.us]

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
E-mail: toni.sturtevant@dep.state.fl.us

Ecology Party of Florida
641 SW 6th Avenue
Ft. Lauderdale, FL 33315
Michael Canney
Email: alachuagreen@windstrem.net

Docket Nos. 52-029-COL and 52-030-COL
LB ORDER (DENYING MOTION TO SUSPEND DISCOVERY)

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

Dated at Rockville, Maryland
this 23rd day of July 2009