

August 19, 2010

**UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION**

Before the Atomic Safety and Licensing Board

In the Matter of)		
)	Docket Nos.	52-029-COL
Progress Energy Florida, Inc.)		52-030-COL
)		
Levy County Nuclear Plant,)	ASLBP No.	09-879-04-COL
Units 1 and 2			

**JOINT MOTION FOR EXTENSION OF TIME TO FILE
A MOTION FOR SUMMARY DISPOSITION ON CONTENTION 4**

Pursuant to 10 C.F.R. § 2.323 and the Atomic Safety and Licensing Board’s Initial Scheduling Order,¹ applicant Progress Energy Florida, Inc. (“Progress”); Nuclear Information and Resource Service, the Ecology Party of Florida, and the Green Party of Florida (collectively, “Joint Intervenors”), and the Nuclear Regulatory Commission staff (collectively, the “Parties”) hereby submit this joint motion requesting that the Atomic Safety and Licensing Board (“Board”) extend the timeliness deadline for filing motions for summary disposition regarding Contentions 4. Specifically, the Parties request a forty-day extension of the deadline for a motion regarding Contention 4 so that they may engage in settlement discussions.

In its ISO, the Board established a timeliness trigger for dispositive motions stating, “In light of the gravity and importance of dispositive motions, and in order to accommodate careful consultation . . . , dispositive motions may be filed twenty (20) days after the occurrence or circumstance from which the motion arises . . . , provided that the moving party commences sincere efforts to contact and consult all other parties within ten (10) days of the occurrence or circumstance, and the accompanying certification so states.” Initial Scheduling Order at 14. Since the issuance of the Draft Environmental Impact

¹ Progress Energy Florida, Inc. (Combined License Application for Levy County Nuclear Power Plant, Units 1 and 2), LBP-09-22, 70 NRC __ (slip op. at 10-11) (Aug. 27, 2009) (“ISO”).

Statement (“DEIS”), NUREG-1941, on August 5, 2010,² Counsel for Progress and representatives of the Joint Intervenors have engaged in two constructive discussions on August 12, 2010 and August 18, 2010.³ Based on these discussions, the Parties believe there is a willingness and genuine opportunity to conduct further good faith negotiations regarding Contentions 4. The Board encouraged the Parties to file a joint motion under these circumstances, stating, “If the initial consultation is initiated at a reasonable time and the parties believe that all or part of the matter may be resolved amicably if additional time for filing the motion were provided, the parties are encouraged to file a joint motion requesting an extension of time.” ISO at 11 n. 24.

To facilitate the possibility that all or part of the matters in Contentions 4 may be resolved amicably, this joint motion requests extensions of the deadlines for filing of motions for summary disposition.⁴ Joint Intervenors have asked for an additional forty (40) days on Contention 4, and Progress and the NRC staff do not object to this request.⁵ The Parties request that the Board extend the timeliness deadline for filing a motion for summary disposition regarding Contention 4 to October 4, 2010.⁶

I certify that I have made a sincere effort to contact the other parties in this proceeding, to explain to them the factual and legal issues raised in this motion, and to resolve those issues. I certify that after

² See NRC Letter from Scott C. Flanders, Director Division of Site and Environmental Reviews, NRR, to John Elnitsky, Progress Energy Vice President, Nuclear Plant Development (Aug. 5, 2010). This letter was forwarded to the Parties by the NRC Staff (J. Martin) on that same date. NRC Eleventh Status Report, (Aug. 5, 2010).

³ Counsel for the NRC Staff participated in the discussion on August 18, 2010.

⁴ In the ISO, the Board encouraged the Parties to consider and pursue measures, as specified in 10 C.F.R. §§ 2.329(c)(1)-(3) and 2.338, including: (1) The clarification, simplification, or specification of the issues; (2) The necessity or desirability of amending the pleadings; (3) Opportunities to develop stipulations or admissions of fact; and (4) Opportunities for the settlement of issues or contentions. ISO at 15-16.

⁵ The number of days requested is driven by Joint Intervenors’ representation regarding the availability of their expert.

⁶ No change to the absolute deadline of March 17, 2011 is requested. Licensing Board Order (Revising Deadline for Motions for Summary Disposition of Environmental Matters) at 2 (Apr. 7, 2010) (unpublished).

this consultation, the Joint Intervenors and the NRC staff both authorized Progress to file this motion on their behalf.

Respectfully Submitted,

/Signed electronically by Robert B. Haemer/

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(Combined License Application for)		
Levy County Nuclear Plant, Units 1 and 2))	ASLBP No.	09-879-04-COL

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing Joint Motion for Extension of Time to File A Motion for Summary Disposition on contention 4 dated August 19, 2010, was provided to the Electronic Information Exchange for service to those individuals on the service list in this proceeding this 19th day of August 2010.

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