

**Matilda Sanders**

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**From:** Costello, Jeanne [JCostello@CarltonFields.com]  
**Sent:** Monday, March 05, 2007 10:43 AM  
**To:** Filings@psc.state.fl.us  
**Cc:** Bill Walker; Capt. Damund Williams; Cecillia Bradley; Jack Shreve; James D. Beasley; James W. Brew; Jeff Stone; John Butler; John McWhirter; Joseph A. McGlothlin; Karen White; Lee Willis; Lisa Bennett; Michael Twomey; Norman "Doc" Horton; Patricia Christensen; Paula K. Brown, Regulatory Affairs; Phyllis Davis, Asst. to P. Christensen; Rhonda Dugar, Asst. to S. Wright; Schef Wright; Susan Ritenour; Wade Litchfield  
**Subject:** Emailing: PEF Request Consider Testimony of Heller Out of Order.pdf  
**Attachments:** PEF Request Consider Testimony of Heller Out of Order.pdf



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<<PEF Request Consider Testimony of Heller Out of Order.pdf>> Attached for filing and e-service is Progress Energy Florida, Inc.'s Request for the Commission to Consider the Testimony of James N. Heller Out of Order at the Final Hearing in this Docket.

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DOCUMENT NUMBER-DATE

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FPSC-COMMISSION CLERK

ORIGINAL

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Petition on behalf of Citizens of	)	
the State of Florida to require	)	DOCKET NO. 060658-EI
Progress Energy Florida, Inc. to	)	
refund to customers \$143 million	)	Filed: March 5, 2007
_____	)	

**PROGRESS ENERGY FLORIDA, INC.'S REQUEST FOR THE COMMISSION TO CONSIDER THE TESTIMONY OF JAMES N. HELLER OUT OF ORDER AT THE FINAL HEARING IN THIS DOCKET**

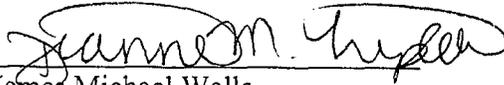
Progress Energy Florida, Inc. ("PEF" or the "Company"), through its undersigned counsel and pursuant to Rule 28-106.104, F.A.C., hereby files PEF's Request for the Commission to Consider the Testimony of James N. Heller Out of Order at the Final Hearing in this Docket. In support of PEF's Request, PEF states that:

1. This docket began as the result of a petition filed by the Office of Public Counsel ("OPC"). The final hearing in this matter, pursuant to Order No. PSC-07-0048-PCO-EI, is scheduled for April 2, 3, and 4, 2007.
2. The Jewish holiday of Passover begins at sundown on April 2, 2007.
3. One of PEF's expert witnesses, James N. Heller ("Mr. Heller"), celebrates Passover, and accordingly is restricted from working once the holiday begins.
4. Given these religious constraints, PEF requests that Mr. Heller be permitted to testify out of order, so that the hearing will not interfere with Mr. Heller's observation of Passover. Mr. Heller's testimony will not be presented before OPC's first witness has testified.
5. PEF has contacted counsel for OPC, Staff, AARP, and FIPUG, and none of these parties have any objection to this motion.

Wherefore, PEF requests that the Commission grant PEF's Request for the Commission to Consider the Testimony of James N. Heller Out of Order at the Final Hearing in this Docket.

Respectfully submitted this 5<sup>th</sup> day of March, 2007.

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**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished via U.S. Mail this 5<sup>th</sup> day of March, 2007 to all parties of record as indicated below.

  
Attorney

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