



**Progress Energy**

ORIGINAL

**BONNIE E. DAVIS**  
DEPUTY GENERAL COUNSEL  
PROGRESS ENERGY SERVICE COMPANY, LLC

October 11, 2004

Ms. Blanca S. Bayó, Director  
Division of the Commission Clerk  
and Administrative Services  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, Florida 32399-0850

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Re: Docket No. 040001-EI

Dear Ms. Bayó:

Enclosed for filing in the subject docket on behalf of Progress Energy Florida, Inc., are an original and seven copies of the Response to Motion to Remove Issues.

Please acknowledge your receipt of the above filing on the enclosed copy of this letter and return to the undersigned. A 3½ inch diskette containing the above-referenced document in Word format is also enclosed. Thank you for your assistance in this matter.

Very truly yours,

Bonnie E. Davis

CMP \_\_\_\_\_ BED/tg  
COM S \_\_\_\_\_ Enclosures  
CTR \_\_\_\_\_ cc: Parties of Record  
ECR \_\_\_\_\_  
GCL \_\_\_\_\_  
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FPSC-COMMISSION CLERK

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

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In re: Fuel and Purchased Power  
Cost Recovery Clause with  
Generating Performance Incentive  
Factor.

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Docket No. 040001-EI

Submitted for filing:  
October 11, 2004

**RESPONSE TO MOTION TO REMOVE ISSUES**

Progress Energy Florida, Inc. (Progress Energy or the Company), pursuant to Rule 28-106.204, Florida Administrative Code, hereby responds to the motion of The Florida Industrial Power Users Group (FIPUG) and the Citizens of the State of Florida (OPC) to remove issues related to the contract between Southern Company (Southern) and Progress Energy addressed in the testimony of Mr. Samuel Waters from the November hearing scheduled in this docket.

1. Progress Energy does not believe grounds exist to establish a separate hearing schedule to consider this matter. This type of long term supply contract has traditionally been recovered through the Fuel and Purchased Power Adjustment Clause (emphasis added). Had the Company not presented the contract for approval one suspects that a great hue and cry would have been heard from the same parties who now complain that it has.

2. The motion is premature. Many of the features of the contract which are characterized as ambiguous or unknown by Movants could be resolved through informal discussions among the parties which were not sought prior to the filing of the motion. Questions about regulatory timing should not obscure the underlying issue of whether this contract is in the best interests of our customers.

3. The Letter of Intent anticipates a contract that will contain a provision requiring Southern to hold the deal open for six months pending regulatory approval. Regulatory delay in and of itself should not cause the loss of a contract that is in the best interests of our customers. The Company stands ready to meet with all interested parties and resolve any remaining questions concerning the contract. Therefore, the Company requests that the motion to remove the issues from the November hearing be denied or held in abeyance pending further discussion among the parties.

WHEREFORE, Progress Energy respectfully requests that the Commission deny or hold in abeyance the motion to remove unless pending further discussion of the parties.

Respectfully submitted,



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Attorneys for  
PROGRESS ENERGY FLORIDA, INC.

**PROGRESS ENERGY FLORIDA**

**DOCKET NO. 040001-EI**

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true copy of the foregoing Response to Motion to Remove Issues has been furnished to the following individuals by regular U.S. Mail the 11<sup>th</sup> day of October, 2004.

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