

Timolyn Henry

From: Costello, Jeanne [JCostello@CarltonFields.com]
Sent: Tuesday, February 06, 2007 3:38 PM
To: Filings@psc.state.fl.us
Cc: Asha Maharaj-Lucas, Asst. to J. McGlothlin; Harold Mclean; John McWhirter, Jr.; John T. Lavia, III; Joseph A. McGlothlin; Lisa Bennett; Mike Twomey; Patricia Christensen; Phyllis Davis, Asst. to P. Christensen; Rhonda Dulgar, Asst. to S. Wright; Schef Wright
Subject: Emailing: Doc. 070052 PEF Letter to Edgar.pdf
Attachments: Doc. 070052 PEF Letter to Edgar.pdf



Doc. 070052 PEF
Letter to Edga...

<<Doc. 070052 PEF Letter to Edgar.pdf>> Attached for filing in Docket 070052 is Progress Energy's letter to Chairman Lisa Polak Edgar. Paper service copies will be furnished to counsel and parties of record in today's mail.

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February 6, 2007

Chairman Lisa Polak Edgar
Florida Public Service Commission
2540 Shumard Oak Blvd.
Tallahassee, FL 32399-0850

Re: In Re: Petition by Progress Energy Florida, Inc. to recover costs of
Crystal River Unit 3 Uprate through Fuel Clause
Docket No. 070052

Dear Chairman Edgar:

We received the Office of Public Counsel's ("OPC") February 2, 2007 letter to you in Docket 070052 and we must reluctantly respond. OPC asks you to abate the hearing date and dates for testimony in this proceeding pending any ruling on OPC's motion to abate Progress Energy Florida, Inc's (PEF) petition in this docket. OPC's request will result in OPC receiving immediately the relief. OPC requests in its motion to abate PEF's petition, which was just filed with the Commission, without an opportunity for PEF to respond to and be heard on the request in the letter or the motion.

We believe this request is improper, indeed OPC's request amounts to a temporary injunction against PEF's petition, without OPC having even attempted to demonstrate much less establish in its letter the elements of irreparable harm, inadequacy of the legal remedy available, or substantial likelihood of success on the merits of the request that must be established under Florida law to obtain such extraordinary relief. We, accordingly, are compelled to respond to OPC's letter and request the Commission to refuse to act on the immediate (and injunctive) relief requested in OPC's letter. Rather, OPC's motion to abate should be heard in due course by the prehearing officer after PEF has been afforded the opportunity to respond to and be heard on OPC's motion. PEF will file its formal response to OPC's motion soon.

Sincerely,


Dianne M. Triplett