

Eric Fryson

From: Costello, Jeanne <jcostello@carltonfields.com>
Sent: Tuesday, May 21, 2013 3:45 PM
To: Filings@psc.state.fl.us
Cc: Gamba, Blaise N.; 'Charles Rehwinkel'; 'Dianne Triplett'; 'Erik L. Saylor'; 'F. Alvin Taylor'; 'James Brew'; 'John Burnett'; 'Jon C. Moyle Jr.'; Keino Young; Bernier, Matthew R.; Michael Lawson; Walls, J. Michael; 'Monica Woods'; 'Myndi Qualls'; 'Paul Lewis Jr.'; 'Schef Wright'; Lee Eng Tan
Subject: Electronic Filing Docket No. 100437-EI (with attachments)
Attachments: Docket 100437 DEF Response in Opposition to Mtn to Compel.pdf; Docket 100437 DEF Notice of Filing Affidavit in Support.pdf

Electronic Filing

a. Person responsible for this electronic filing:

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b. Docket No. 100437-EI

In re: Examination of the outage and replacement fuel/power costs associated with the CR3 steam generator replacement project, by Duke Energy Florida, Inc.

c. Documents are being filed on behalf of Duke Energy Florida, Inc.

d. The documents attached for electronic filing are:

1. Duke Energy Florida, Inc.'s Response in Opposition to the Citizens of Florida's Motion to Compel Discovery and Request for In Camera Review of Documents [21 pages]; and
2. Duke Energy Florida, Inc.'s Notice of Filing Affidavit in Support of Duke Energy Florida, Inc.'s Response in Opposition to the Citizens of Florida's Motion to Compel Discovery and Request for In Camera Review of Documents [12 pages].

DOCUMENT NUMBER-DATE

02806 MAY 21 02

Thank you for your attention to this request.

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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Examination of the outage and replacement fuel/power costs associated with the CR3 steam generator replacement project, by Progress Energy Florida, Inc.

DOCKET NO.: 100437-EI

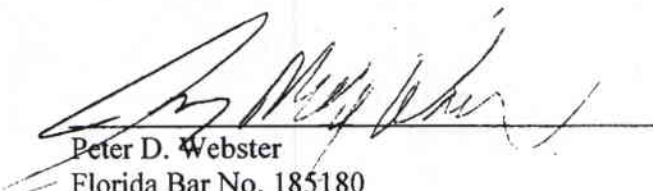
SERVED: May 21, 2013

**DUKE ENERGY FLORIDA, INC.'S NOTICE OF FILING
AFFIDAVIT IN SUPPORT OF DUKE ENERGY FLORIDA, INC.'S RESPONSE IN
OPPOSITION TO THE OFFICE OF PUBLIC COUNSEL'S MOTION TO COMPEL
DISCOVERY AND REQUEST FOR IN CAMERA REVIEW OF DOCUMENTS**

Duke Energy Florida, Inc. ("DEF" or "the Company"), hereby gives notice of filing the affidavit of Alex Glenn in support of Duke Energy Florida, Inc.'s Response in Opposition to the Office of Public Counsel's Motion to Compel Discovery and Request for In Camera Review of Documents.

Respectfully submitted,

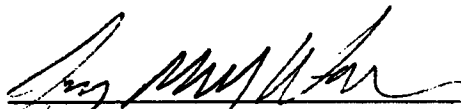
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY a true and correct copy of the foregoing has been furnished to counsel and parties of record as indicated below via electronic and U.S. Mail this 21st day of May, 2013.



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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Examination of the outage and replacement fuel/power costs associated with the CR3 steam generator replacement project, by Progress Energy Florida, Inc.

DOCKET NO.: 100437-EI

Filed: May 21, 2013

AFFIDAVIT OF ALEX GLENN IN SUPPORT OF DUKE ENERGY FLORIDA, INC.'S RESPONSE TO THE OFFICE OF PUBLIC COUNSEL'S MOTION TO COMPEL DISCOVERY AND REQUEST FOR IN CAMERA REVIEW OF DOCUMENTS

STATE OF FLORIDA

COUNTY OF PINELLAS

BEFORE ME, the undersigned authority duly authorized to administer oaths, personally appeared Alex Glenn, who being first duly sworn, on oath, deposes and says that:

1. My name is Alex Glenn. I am employed by Duke Energy Florida, Inc. ("DEF" or the "Company") and I currently serve as the Company's president. I am over the age of 18, and I have been authorized by the Company to provide this affidavit in the above-styled proceeding on the Company's behalf and in response to the Office of Public Counsel's ("OPC") Motion to Compel Discovery and Request for In Camera Review of Documents.

2. The facts attested to in my affidavit are based upon my personal knowledge.

3. As the Company President, I am responsible for achieving the Company's financial and operational goals, advancing the Company's rate and regulatory initiatives, and overseeing state and local regulatory and governmental relations, economic development, and community affairs. Prior to my appointment as the Company President, I was employed as the Company's General Counsel from 2008 to December 1, 2012. In that role, I oversaw all Legal and Regulatory Affairs functions for the Company. My responsibilities as General Counsel for the Company included oversight of the claims process with Nuclear Electric Insurance Limited

("NEIL") related to the Company's Steam Generator Replacement ("SGR") project and the subsequent delaminations and repairs at the Company's Crystal River Unit 3 ("CR3") nuclear power plant. In August 2012, I was named the Company's President prior to fully assuming the role of Company President on December 1, 2012. Between August 2012 and December 2012, I had responsibilities with respect to both positions. In my role as Company President, my responsibilities included leading the Company's evaluation of whether to repair or retire CR3 and the evaluation of the decision to settle the Company's claims with NEIL.

4. The Company is a wholly owned subsidiary of Duke Energy Corporation ("Duke Energy"). Prior to the merger between Duke Energy and Progress Energy, Inc., in July 2012, the Company was a wholly owned subsidiary of Progress Energy, Inc. Prior to and after the merger, legal advice and assistance for Company matters, including all matters related to the SGR project, delaminations, and repairs at CR3 such as the NEIL insurance claims, was provided by the legal department for the parent company, which included the legal department for the Company. In this Affidavit, I will refer to the in-house counsel for the parent company and the Company collectively as the legal department.

5. Attached to my affidavit as Exhibit A is the Company's revised privilege log to OPC's seventh request for production of documents to the Company. I have reviewed OPC's motion to compel, and I understand that OPC is challenging the Company's assertion of privilege to all 31 documents listed on the Company's revised privilege log.

6. I am personally familiar with all 31 documents contained in the privilege log, and all of them were prepared at my request or direction, or at the request or direction of my counterparts in the legal department. In addition, all of these documents either were prepared by lawyers within the legal department or retained by the legal department to provide legal advice,

or were distributed to lawyers within the legal department or to senior executives who requested legal advice from the lawyers who authored the documents. None of these documents were requested or prepared solely for business purposes or routine business matters and none were disseminated beyond those persons who, because of the corporate structure, needed to know their contents.

7. Furthermore, all of these documents were prepared for the purpose of providing legal advice to or for the Company with respect to various aspects of the Company's disputed insurance claims with NEIL related to the SGR project, the delaminations, and subsequent repairs. There was no reason to request the legal advice contained in these documents but for the fact that NEIL disputed the Company's insurance claims under the Company's NEIL policies. All of these documents represent the legal advice of the attorneys who prepared the documents and work product material under the work product doctrine.

8. Finally, the Company has no intention of using any of its privileged communications or materials to prove its claims in this proceeding.

9. This concludes my affidavit.

Further affiant sayeth not.

Dated this 20th day of May, 2013.



(Signature)
Alex Glenn
President, Duke Energy Florida, Inc.
299 First Avenue North
St. Petersburg, Florida 33701

THE FOREGOING INSTRUMENT was sworn to and subscribed before me this 20th day of May, 2013 by Alex Glenn. He is personally known to me, or has produced his _____ driver's license, or his _____ as identification.



(AFFIX NOTARIAL SEAL)

Katrina Cleaver Cochran

(Signature)

KATRINA CLEAVER COCHRAN

(Printed Name)

NOTARY PUBLIC, STATE OF FL

2-2-2014

(Commission Expiration Date)

DD 944113

(Serial Number, If Any)

In re: Examination of the outage and replacement fuel/power costs associated with the CR3 steam generator replacement project, by Progress Energy Florida, Inc.

Docket No. 100437-EI

PROGRESS ENERGY FLORIDA, INC.'S PRIVILEGE LOG TO
OPC'S SEVENTH REQUEST FOR PRODUCTION

Bates No./ Request	Date	Author	Recipient	Description	Privilege
OPC's Seventh Request for Production Nos. 64, 65, and 66 (a-c)	8/27-28/2012	Alex Glenn, Esq.	Management	CR3 Review Team Whitepaper (contains attorney mental impressions)	Attorney Client Communication Work Product
OPC's Seventh Request for Production No. 65	7/31/2012	David Fountain, Esq.	Marc Manly, Esq.	Progress Energy v. NEIL CR3 Delamination Repair Case Update powerpoint presentation (prepared at direction of General Counsel; contains attorney mental impressions)	Attorney Client Communication Work Product
OPC's Seventh Request for Production No. 65	2012	John Burnett, Esq.	Alex Glenn, Esq.	Spreadsheet of possible scenarios (contains attorney mental impressions)	Attorney Client Communication Work Product
OPC's Seventh Request for Production No. 65	7/29/2011	Alex Glenn, Esq.	John Burnett, Esq.	Draft outline of NEIL Coverage Legal Analysis & Recommendations (contains attorney mental impressions)	Attorney Client Communication Work Product

AFFIDAVIT OF ALEX GLENN
EXHIBIT A

Bates No./ Request	Date	Author	Recipient	Description	Privilege
OPC's Seventh Request for Production No. 65	2012	John Burnett, Esq.	Alex Glenn, Esq.	Timeline/analysis of NEIL coverage (contains attorney mental impressions)	Attorney Client Communication Work Product
OPC's Seventh Request for Production No. 65	1/29/2010	Peter Gillon, Esq., John O'Neill, Esq.	Dave Conley, Esq.	Memorandum re: Crystal River Unit 3, Initial Coverage Analysis (contains attorney mental impressions)	Attorney Client Communication Work Product
OPC's Seventh Request for Production No. 65	5/3/2012	PEF Legal	Alex Glenn, Esq.	Draft CR3 Decommissioning Analysis (contains attorney mental impressions)	Attorney Client Communication Work Product
OPC's Seventh Request for Production No. 65	5/26/2012	David L. Elkind Erin L. Webb (Pillsbury)	John Burnett, Esq.	Memorandum re: Crystal River Nuclear Generating Plant, Unit 3 Coverage Overview – Decommissioning Scenario (contains attorney mental impressions/prepared at the direction of counsel)	Attorney Client Communication Work Product
OPC's Seventh Request for Production No. 65	5/28/2012	Mike Walls, Esq.	John Burnett, Esq.	Draft memorandum re: insurance coverage (contains attorney mental impressions)	Attorney Client Communication Work Product
OPC's Seventh Request for Production No. 65	3/21/2011	Gary Little	John Burnett, Esq.	Email re: NEIL Coverage Details and Options (work product obtained pursuant to and prepared at attorney's request)	Attorney Client Communication Work Product

Bates No./ Request	Date	Author	Recipient	Description	Privilege
OPC's Seventh Request for Production No. 65	5/23/2012	Alex Glenn, Esq.	Management	CR3 Retirement Option – Insurance Policy Coverage – Legal Analysis powerpoint presentation (contains attorney mental impressions)	Attorney Client Communication Work Product
OPC's Seventh Request for Production No. 65	6/7/2012	Alex Glenn, Esq.	Management	CR3 Repair Legal Analysis powerpoint presentation (contains attorney mental impressions)	Attorney Client Communication Work Product
OPC's Seventh Request for Production No. 65	5/17/2012	L.D. Simmons II, Esq., L. Quinlan, Esq.	David Fountain, Esq.	Memorandum re: Analysis of Coverage Available under the NEIL Policies in the event Progress elects to decommission CR3 (contains attorney mental impressions)	Attorney Client Communication Work Product
OPC's Seventh Request for Production No. 65	7/17/2012	L.D. Simmons II, Esq.	David Fountain, Esq.	Memorandum re: Progress Energy Florida v. NEIL Proof of loss (contains attorney mental impressions)	Attorney Client Communication Work Product
OPC's Seventh Request for Production No. 65	3/2012	PEF Legal	Management and Alex Glenn, Esq.	Crystal River 3 NEIL Update powerpoint presentation (prepared at request of and for counsel; contains attorney mental impressions)	Attorney Client Communication Work Product
OPC's Seventh Request for Production No. 65	11/3/2011	L.D. Simmons II, Esq.	David Fountain, Esq.	Memorandum/Legal Analysis re: Crystal River Unit 3 Delamination Claim Against NEIL Master Coverage Analysis (contains attorney mental impressions)	Attorney Client Communication Work Product

Bates No./ Request	Date	Author	Recipient	Description	Privilege
OPC's Seventh Request for Production No. 65	2012	Alex Glenn, Esq.	Management	Slides to powerpoint re: scenarios of retirement of CR3 (contains attorney mental impressions)	Attorney Client Communication Work Product
OPC's Seventh Request for Production No. 65	8/1/2012	David Fountain, Esq. (email); L.D. Simmons, II, Esq., and L. Quinlan, Esq. (memo)	Swati Daji, Garry Little, Keith Bone, Patricia Smith, Esq.	Email attaching 5/17/2012 Memorandum from McGuire Woods re Analysis of Coverage available under the NEIL Policies in the event Progress elects to decommission CR3 (contains attorney mental impressions)	Attorney Client Communication Work Product
OPC's Seventh Request for Production No. 65		PEF/Duke Legal	Alex Glenn, Esq.	Slides to powerpoint re: scenarios of retirement of CR3 (contains attorney mental impressions)	Attorney Client Communication Work Product
OPC's Seventh Request for Production No. 65	8/7/2012	Swati Daji	Keith Bone, David Fountain, Esq. Patricia C. Smith, Esq., Gary Little	Email re: 8 am meeting and attached presentation of NEIL update including marginalia on email and presentation (containing attorney mental impressions)	Attorney Client Communication Work Product
OPC's Seventh Request for Production No. 65	2/12/2010	Peter Gillon, Esq., John O'Neill, Esq.	Dave Conley, Esq.	Memorandum re: Crystal River Unit 3 Summary of Initial Coverage Analysis (contains attorney mental impressions)	Attorney Client Communication Work Product
OPC's Seventh Request for Production No. 65	5/21/2012	L.D. Simmons II, Esq.	Alex Glenn, Esq. David Fountain, Esq.	Email re: Analysis of Available Coverage for Property Damage/Outage in the Event of Decommissioning and attachment (contains attorney mental impressions)	Attorney Client Communication Work Product

Bates No./ Request	Date	Author	Recipient	Description	Privilege
OPC's Seventh Request for Production No. 65	5/22/2012	L.D. Simmons II, Esq.	Alex Glenn, Esq.	Email exchange re: RE: CR3 Decommissioning Insurance Coverage Legal Analysis Rev0.pptx and attached draft powerpoint presentation (containing attorney mental impressions)	Attorney Client Communication Work Product
OPC's Seventh Request for Production No. 65	5/22/2012	Lowndes Quinlan, Esq.	Alex Glenn, Esq. L.D. Simmons II, Esq. Joshua Davey, Esq.	Email exchange re: RE: NEIL Drafting History (containing attorney mental impressions)	Attorney Client Communication Work Product
OPC's Seventh Request for Production No. 65	3/26/2012	L.D. Simmons, II, Esq.	David Fountain, Esq. Frank Schiller, Esq. David Elkind	Memorandum re: PEF v. NEIL: Strategy Implications of Outage Policy Coverage (containing attorney mental impressions)	Attorney Client Communication Work Product
OPC's Seventh Request for Production No. 65	10/22/2012	Paul Newton, Esq.	Diane Wilkinson	Email forwarding Gary Little email re: NEIL policy, NEIL policy containing marginalia and draft notes regarding NEIL policy(containing attorney mental impressions)	Attorney Client Communication Work Product
OPC's Seventh Request for Production Nos. 64, 65	2012	David Fountain, Esq.	Management	Powerpoint re: Other NEIL Defenses (containing attorney mental impressions)	Attorney Client Communication Work Product
OPC's Seventh Request for Production Nos. 64, 65	2012	David Fountain, Esq.	Management	Powerpoint re: Progress Energy v. NEIL CR3 Delamination Repair Case Update September 2012 (containing attorney mental impressions)	Attorney Client Communication Work Product

Bates No./ Request	Date	Author	Recipient	Description	Privilege
OPC's Seventh Request for Production Nos. 64, 65, and 66 (a-c)	9/11/2012	Pillsbury (outside counsel)	Management	Progress Energy v. NEIL Pillsbury Briefing Binder (containing attorney mental impressions)	Attorney Client Communication Work Product
OPC's Seventh Request for Production Nos. 64, 65, and 66 (a-c)	11/18/2012	McGuire Woods LLP (outside counsel)	Management	Powerpoint, Progress Energy Florida, Inc. v. Nuclear Electric Insurance Limited Mediation (containing attorney mental impressions)	Attorney Client Communication Work Product
OPC's Seventh Request for Production Nos. 64 and 66 (d)	1/31/2013	Julie Janson, Esq.	Duke Energy Board	PowerPoint, Crystal River 3 Legal Issues (containing attorney mental impressions)	Attorney Client Communication Work Product