


## MEMORANDUM

TO: Board of County Commissioners  
THROUGH: Stephen P. Lee, Deputy County Attorney  
FROM: Herbert S. Zischkau, Assistant County Attorney   
DATE: July 3, 2003  
RE: Easement Holder: Progress Energy Corporation  
Owner: Seminole County  
Wymore Road  
Parcel No. 126  
*Seminole County v. EQR-BOND Partnership, et al.*  
Case No. 03-CA-315-13-L

This Memorandum requests approval by the Board of County Commissioners (BCC) and execution by the Chairman of a Subordination Of Utility Interests agreement with respect to the easement interest of Progress Energy Corporation ("PEC") in property that was previously acquired in fee by Seminole County as Parcel No. 126. The County acquired Parcel No. 126, a partial acquisition in fee, from the frontage of Wymore Road in which PEC has a Distribution Easement. Please see location map attached as Exhibit A.

The BCC adopted Resolution No. 01-R-31 on February 13, 2001 authorizing the acquisition of parcels involved with Wymore Road, and finding that the Wymore Road road improvement project is necessary and serves a public purpose and is in the best interests of the citizens of Seminole County.

PEC has signed and tendered a recordable instrument, entitled Subordination of Utility Interests, prepared by the County Attorney's Office, a copy of which is attached as Exhibit B. County staff asks that the BCC accept this Subordination of Utility Interests for filing in the land records.

The land area of the fee acquired is 679 SF. The Distribution Easements allows PEC to maintain overhead power lines, a pole, and stays to support the pole. PEC has agreed to provide the subordination of its easement interests without charge. This will also settle PEC's involvement in the above-referenced litigation.


HSZ\dre  
Exhibit A - Location Map  
Exhibit B - Copy of Subordination Agreement

Seminole County, Florida

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**Legend**

- Selected Features
- County Boundary
- Streets
- Hydrology
- Subdivision Lines
- Parcels
- Govt. Facilities
- Golf Course
- Parks
- Shelters

EXHIBIT A

**SUBORDINATION OF UTILITY INTERESTS**

**THIS AGREEMENT**, entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2003, by and between **PROGRESS ENERGY CORPORATION f/k/a FLORIDA POWER CORPORATION**, whose address is 100 Central Avenue, St. Petersburg, Florida 33701-4306, hereinafter referred to as the "COMPANY", and **SEMINOLE COUNTY**, a political subdivision of the State of Florida, whose address is Seminole County Services Building, 1101 East First Street, Sanford, Florida 32771, hereinafter referred to as the "COUNTY".

**WITNESSETH:**

**WHEREAS**, the COMPANY presently has an interest in certain lands that have been determined necessary for use as right-of-way for additional traffic lanes and improved drainage facilities on **Wymore Road**; and

**WHEREAS**, the proposed use of these lands for use as right-of-way for additional traffic lanes and improved drainage facilities purposes on **Wymore Road** will require subordination of the interest claimed in such lands by the COMPANY to the COUNTY; and

**WHEREAS**, the COUNTY is willing to pay to have the COMPANY's facilities relocated, if necessary, or to replace COMPANY's easements with new easements encumbering different lands if necessary, to prevent conflict between the facilities so that the benefits of each may be retained,

**NOW, THEREFORE**, in consideration of the mutual covenants and promises of the parties hereto, the COMPANY and the COUNTY agree as follows:

**THE COMPANY** subordinates any and all of its interest in the lands described as follows:

**(See, legal descriptions attached as Exhibit A)**

to the interest of the COUNTY, its successors, or assigns, for the purpose of constructing, improving, maintaining and operating a road, including drainage facilities, over, through, upon, and/or across such lands, including, but not limited to, the claim of interest based on the following:

NATURE OF ENCUMBRANCE	DATE	FROM OR AGAINST	IN FAVOR OF	RECORDED BOOK/PAGE
Distribution Easement	05/13/86	EQR-Bond Partnership	Florida Power Corporation	1782/1401

**PROVIDED** that the COMPANY has the following rights:

1. The COMPANY shall have the right to construct, operate, maintain, remove, and relocate facilities on, within, and upon the lands described herein. Any new construction or relocation of facilities within the lands will be subject to prior approval by the County Engineer of Seminole County.

2. The COMPANY shall have a reasonable right to enter upon the lands described herein for the purposes outlined in Paragraph 1 above, including the right to trim such trees, brush, and growth which might endanger or interfere with such facilities, provided that such rights do not interfere with the operation and safety of the COUNTY's facilities.

3. The COMPANY agrees to repair any damage to COUNTY facilities and to indemnify the COUNTY against any loss or damage resulting from the COMPANY exercising its rights outlined in Paragraphs 1 and 2 above.

4. Should the COUNTY require the COMPANY to alter, adjust, or relocate its facilities located within said lands, the COUNTY hereby agrees to pay the cost of such alteration, adjustment or relocation, including, but not limited to the cost of acquiring appropriate replacement easements. Any relocation, alteration or removal of COMPANY's facilities not required by the COUNTY shall be performed at COMPANY's sole cost and expense.

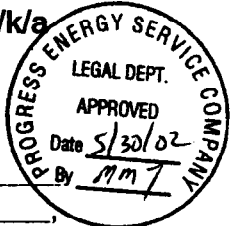
SIGNATORY BLOCKS BEGIN ON PAGE THREE

Parcel No.126  
Wymore Road,  
Seminole County, Florida

IN WITNESS WHEREOF, the parties have executed this Agreement on the day and year first above written.

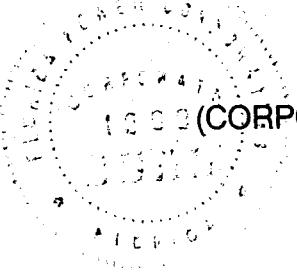
ATTEST:

PROGRESS ENERGY CORPORATION f/k/a  
FLORIDA POWER CORPORATION



[Signature]  
, Secretary

By: [Signature]  
Print name: Sarah S. Rogers  
as its Vice President

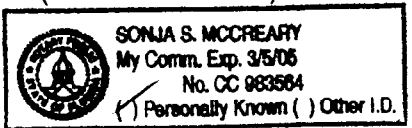


Date: 6-11-03

STATE OF FLORIDA )  
COUNTY OF SEMINOLE )

I HEREBY CERTIFY that, on this 11<sup>th</sup> day of June, 2003, before me, an officer duly authorized in the State and County aforesaid to take acknowledgments, personally appeared Sarah S. Rogers, and [Signature] as Vice President and [Signature] Secretary, respectively, of Progress Energy Florida, Inc., a corporation organized under the laws of the State of Florida, who are personally known to me or who have produced [Signature] as identification. They acknowledged before me that they executed the foregoing instrument as such officers in the name and on behalf of the corporation, and that they also affixed thereto the official seal of the corporation.

(NOTARY SEAL)



[Signature]  
Print Name: Sonja S. McCreary  
Notary Public in and for the County and State Aforementioned  
My commission expires: 3-5-05

Parcel No.126  
Wymore Road,  
Seminole County, Florida

ATTEST:

**BOARD OF COUNTY COMMISSIONERS  
SEMINOLE COUNTY, FLORIDA**


\_\_\_\_\_  
MARYANNE MORSE  
Clerk to the Board of  
County Commissioners of  
Seminole County, Florida.

By: \_\_\_\_\_  
DARYL G. MCLAIN, Chairman

Date: \_\_\_\_\_

For the use and reliance of  
Seminole County only. Ap-  
proved as to form and legal  
sufficiency.

As authorized for execution by the Board  
of County Commissioners at its \_\_\_\_\_  
2003, regular meeting.

  
\_\_\_\_\_  
County Attorney

HZ/la

05/13/03

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**RIGHT-OF-WAY DESCRIPTION**

000332

**PROJECT:** Wymore Road  
**OWNER(S):** Springs Colony Venture, a joint venture  
**R/W PARCEL NO.:** 126

That part of the southwest ¼ of the southwest ¼ and the northwest ¼ of the southwest ¼ of Section 14, Township 21 South, Range 29 East, Seminole County, Florida, as conveyed by Warranty Deed as recorded in Official Records Book 1675, Page 932, of the Public Records of Seminole County, Florida, being more particularly described as follows:

**Description**

Commence at a bolt marking the southeast corner of the southwest ¼ of the southwest ¼ of Section 14, Township 21 South, Range 29 East, Seminole County, Florida; thence run North 00°18'15" East along the east line of the southwest ¼ of the southwest ¼, a distance of 1172.07 feet to a point; thence South 86°17'46" West, a distance of 25.06 feet to a point on the westerly right-of-way line of Wymore Road and the Point of Beginning; thence South 86°17'46" West, a distance of 4.01 feet to a point; thence North 00°18'15" East, a distance of 169.78 feet to a point; thence South 89°41'45" East a distance of 4.00 feet, thence South 00°18'15" West along the aforesaid westerly right-of-way line of Wymore Road, a distance of 169.50 feet to the Point of Beginning.

Containing 679 square feet, more or less.

4012  
SEMINOLE CO., FL