

ORIGINAL

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Review of Florida Power Corporation's Earnings, Including Effects of Proposed Acquisition of Florida Power Corporation by Carolina Power & Light

DOCKET NO. [REDACTED]

Submitted for Filing: December 21, 2001

COMMISSION CLERK

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FLORIDA POWER CORPORATION'S OBJECTIONS TO CITIZENS' ELEVENTH REQUEST FOR PRODUCTION OF DOCUMENTS TO FLORIDA POWER CORPORATION

Pursuant to § 350.0611(1), Fla. Stat. (2000), Fla. Admin. Code R. 28-106.206, and Fla. R. Civ. P.1.350, Florida Power Corporation ("FPC") objects to Florida's Citizens ("Citizens") Eleventh Request for Production (Nos. 134-141) and states as follows:

GENERAL OBJECTIONS

FPC objects to any request that calls for the production of documents protected by the attorney-client privilege, the work product doctrine, the accountant-client privilege, the trade secret privilege, or any other applicable privilege or protection afforded by law, whether such privilege or protection appears at the time the response is first made to these requests or is later determined to be applicable based on the discovery of documents, investigation or analysis. FPC in no way intends to waive any such privilege or protection.

In certain circumstances, FPC may determine upon investigation and analysis that documents that respond to certain requests to which objections are not otherwise asserted are confidential and proprietary and should be produced only under an appropriate confidentiality agreement and protective order, if at all. By agreeing to produce documents in response to this request, FPC is not

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waiving its right to insist upon appropriate protection of confidentiality by means of a confidentiality agreement and protective order. FPC hereby asserts its right to require such protection of any and all documents that may qualify for protection under the Florida Rules of Civil Procedure and other applicable statutes, rules and legal principles.

FPC further objects to these requests and any definitions or instructions that purport to expand FPC's obligations under applicable law.

FPC objects to any request that requires the production of "all" or "each" as it cannot give assurances, even after a good faith and reasonably diligent attempt, that "all" or "each" responsive document will be found. Indeed, it may well be impossible to assure compliance with the exercise of reasonable diligence.

FPC incorporates by reference all of the foregoing general objections into each of its specific objections set forth below as though pleaded therein.

Moreover, to the extent documents responsive to the requests have been previously produced, FPC will not be reproducing these documents but will attempt to make appropriate cross-references between and amongst the various requests.

SPECIFIC OBJECTIONS

Definitions

FPC objects to the definition of "FPC", "you", "your" or the "Company" as including Florida Progress Corporation, Progress Energy, Inc., and Progress Energy Service Company, LLC. FPC does not have an obligation under the rules to produce materials in the hands of these companies, but FPC agrees to do so in any event to expedite discovery, to the extent such documents are relevant to the issues in this case. FPC reserves the right to decline to produce

any materials that are not pertinent to the issues in the case. FPC further objects to the definition of “FPC” , “you”, “your” or the “Company” to the extent it includes third parties whose documents are not within its possession, custody, or control.

FPC objects to the definition of the term “management” or “manager” as overbroad and ambiguous. FPC will attribute the usual and customary meaning of this word to its use in these requests.

Instructions

FPC objects to the instructions calling upon FPC to provide designated information regarding any documents withheld from production to the extent it purports to expand FPC’s obligations. FPC will comply with its obligations under applicable rules of procedure.

FPC objects to the instruction to produce “originals” to the extent it purports to expand FPC’s obligations under the Uniform Rules and Florida Rule of Civil Procedure 1.350. FPC will comply with all applicable rules.

DOCUMENTS REQUESTED

- 134. Please provide the Florida Power Operating Report prepared by the finance department for November, 2001, and the Florida Power Corporation Financial Analysis report for October and November, 2001.**

FPC objects to this request as compound and reserves its right to count this request as two (2) separate requests for the purposes of determining its obligation to continue to provide responses under the order governing procedure in this case.

- 135. Please provide each 2-year business plan created during calendar year 2001 for each business unit of Florida Power Corporation, Florida Progress Corporation, Progress Energy, Inc., and Progress Energy Service Company, LLC., including but not limited to the most recent business plan, even if in draft, non-final, or unapproved form.**

136. For purposes of this request please refer to the response to OPC's POD 12 bates page 005165.
- (a) Please provide the report dated December 16, 1999 concerning Progress Telecommunication Corporation's Transfer Pricing Model Review.
 - (b) Please provide the transfer pricing model in electronic form.
 - (c) Please provide documentation explaining how the model works.
137. Please provide contracts or agreements between the Company and any affiliates that provide services to the Company.
138. For purposes of this request please refer to the response to OPC's POD 49 bates page 000824. From December 2000 to date, please provide the "month report to Client Company" referred to in Section 2.3 of the agreement between Florida Power Corporation and Progress Energy Service Company.
139. For purposes of this request please refer to the response to OPC's POD 49 bates page 000853-000855.
- (a) From January 2001 to date, please provide the "monthly report to Client Company" referred to in Section 2.3 of the agreement between Florida Power Corporation and Progress Energy Service Company. (Bates page 000853)
 - (b) Provide all the documents referred to in Article 1 of the agreement that allows FPC to identify costs to charge to Progress Energy Company. (Bates page 000855)
 - (c) Please provide any documents or manuals which explain how these costs are allocated/charged to Progress Energy Service Company.
 - (d) Provide all workpapers, calculations and source documents which shown how these costs were charged from FPC to Progress Energy Service Company for the year 2001.
 - (e) Provide all workpapers, calculations and source documents which shown how these costs were charged from FPC to Progress Energy Service Company for the budgeted test year.
140. Produce all documents identified in response to OPC's 8th set of Interrogatories.

141. For purposes of this request please refer to the response to OPC's POD 49 bates page 009012. From January 2001 to date, please provide the "month report to Client Company" referred to in Section 2.3 of the agreement between Capital Holdings, Inc. and Progress Energy Service Company.

Respectfully submitted,



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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true copy of foregoing has been furnished via **(hand delivery) and via U.S. Mail to the following this 21st day of December, 2001.

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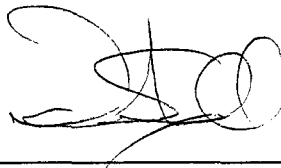
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