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Subject: Docket No. 050078
Attachments: PEF OBJECTIONS TO OPC 1ST INTERR.PDF



PEF

DNS TO OPC 1S

Attached for filing and e-service on behalf of Progress Energy Florida is PEF's Objections to OPC's First Set of Interrogatories (Nos. 1-57) [8 pages].

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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for rate increase by
Progress Energy Florida, Inc.

Docket No. 050078-EI
Submitted for filing:
May 12, 2005

**PEF'S OBJECTIONS TO OPC'S FIRST
SET OF INTERROGATORIES (NOS. 1-57)**

Pursuant to Fla. Admin. Code R. 28-106.206, Rule 1.340 of the Florida Rules of Civil Procedure, and the Order Establishing Procedure in this matter, Progress Energy Florida, Inc. ("PEF") hereby serves its objections to the Office of Public Counsel's ("OPC") First Set of Interrogatories (Nos. 1-57) and states as follows:

GENERAL OBJECTIONS

With respect to the "Definitions" and "Instructions" in OPC's First Set of Interrogatories (Nos. 1-57), PEF objects to any definitions or instructions that are inconsistent with PEF's discovery obligations under applicable rules. If some question arises as to PEF's discovery obligations, PEF will comply with applicable rules and not with any of OPC's definitions or instructions that are inconsistent with those rules. For example, PEF objects to OPC's request that PEF provide information in "a searchable electronic format" because there is no requirement in the applicable rules. PEF also objects to definition "(v)" given that there is no requirement in the applicable rules for PEF to perform any of the tasks set forth in the definition of the word "identify" therein. Furthermore, PEF objects to any interrogatory that calls for PEF to create data or

information that it otherwise does not have because there is no such requirement under the applicable rules and law.

PEF objects to OPC's definition "(i)" given that it includes "affiliates" in the definition of "PEF," and PEF objects to any definition or interrogatory that seeks to encompass persons or entities other than PEF who are not parties to this action and thus are not subject to discovery. No responses to the interrogatories will be made on behalf of persons or entities other than PEF.

Additionally, PEF generally objects to OPC's interrogatories to the extent that they call for data or information 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.

Further, in certain circumstances, PEF may determine upon investigation and analysis that information responsive to certain interrogatories 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 provide such information in response to such an interrogatory, PEF is not waiving its right to insist upon appropriate protection of confidentiality by means of a confidentiality agreement, protective order, or the procedures otherwise provided by law or in the Order Establishing Procedure. PEF hereby asserts its right to require such protection of any and all information that may qualify for protection under the Florida Rules of Civil Procedure, the Order Establishing Procedure, and all other applicable statutes, rules and legal principles.

PEF also objects to any interrogatory that calls for projected data or information beyond the year 2006 because such data or information is irrelevant to this case and has no bearing on this proceeding, nor is such data or information likely to lead to the discovery of admissible evidence. Furthermore, if an interrogatory does not specifically specify a timeframe for which data or information is sought, PEF will interpret such interrogatory as calling only for data and information relevant to the years 2004-2006.

Finally, PEF objects to any attempt by OPC to evade the numerical limitations set on interrogatories in the Order Establishing Procedure by asking multiple independent questions within single individual questions and subparts.

By making these general objections at this time, PEF does not waive or relinquish its right to assert additional general and specific objections to OPC's discovery at the time PEF's response is due under the Florida Rules of Civil Procedure and the Order Establishing Procedure. PEF provides these general objections at this time to comply with the intent of the Order Establishing Procedure to reduce the delay in identifying and resolving any potential discovery disputes.

SPECIFIC OBJECTIONS

Interrogatory 3: PEF objects to OPC's interrogatory number 3 to the extent that it calls for PEF to produce documents as if it were a request for production of documents rather than an interrogatory. In its discretion, PEF may elect to produce documents in response to an interrogatory pursuant to Rule 1.340(c), but PEF has no obligation to do so.

Interrogatory 5: PEF objects to OPC's interrogatory numbers 5(a) and 5(b) because they call for information that is not related to and has nothing to do with PEF.

The information requested is irrelevant to this case and has no bearing on this proceeding, nor is that information likely to lead to the discovery of admissible evidence.

Additionally, PEF objects to interrogatory number 5 to the extent that it seeks to encompass persons or entities other than PEF who are not parties to this action and thus are not subject to discovery. No responses to the interrogatories will be made on behalf of persons or entities other than PEF.

Interrogatory 6: PEF objects to OPC's interrogatory number 6 to the extent that it calls for PEF to produce documents as if it were a request for production of documents rather than an interrogatory. In its discretion, PEF may elect to produce documents in response to an interrogatory pursuant to Rule 1.340(c), but PEF has no obligation to do so. PEF also objects to OPC's interrogatory numbers 6(a), 6(b), and 6(g) because those questions call for PEF to produce data in certain electronic forms irrespective of whether or not PEF has the data in question in the electronic formats sought. If PEF has any responsive data in the electronic forms requested, PEF will provide that data to OPC in those forms. Otherwise, PEF will produce data to OPC in hard-copy format.

Interrogatory 7: PEF objects to OPC's interrogatory number 7 because it calls for information that is not related to and has nothing to do with PEF. The information requested is irrelevant to this case and has no bearing on this proceeding, nor is that information likely to lead to the discovery of admissible evidence.

Interrogatory 12: PEF objects to OPC's interrogatory number 12 to the extent that question calls for PEF to produce data in a certain electronic form irrespective of whether or not PEF has the data in question in the electronic format sought. If PEF has

any responsive data in the electronic form requested, PEF will provide that data to OPC in that form. Otherwise, PEF will produce data to OPC in hard-copy format.

Interrogatory 28: PEF objects to OPC's interrogatory number 28 to the extent that it calls for PEF to produce documents as if it were a request for production of documents rather than an interrogatory. In its discretion, PEF may elect to produce documents in response to an interrogatory pursuant to Rule 1.340(c), but PEF has no obligation to do so.

Interrogatory 32: PEF objects to OPC's interrogatory number 32 because it calls for data from the year 2001. The 2001 vintage data requested is irrelevant to this case and has no bearing on this proceeding, nor is that data likely to lead to the discovery of admissible evidence. PEF also objects to interrogatory number 32 to the extent it seeks information protected by the attorney-client privilege and/or work product doctrine.

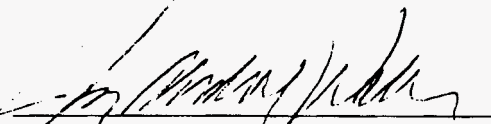
Interrogatory 36: PEF objects to OPC's interrogatory number 36 because it calls for PEF to produce documents as if it were a request for production of documents rather than an interrogatory. In its discretion, PEF may elect to produce documents in response to an interrogatory pursuant to Rule 1.340(c), but PEF has no obligation to do so.

Interrogatory 47: PEF objects to OPC's interrogatory number 47 to the extent that it calls for PEF to produce documents as if it were a request for production of documents rather than an interrogatory. In its discretion, PEF may elect to produce documents in response to an interrogatory pursuant to Rule 1.340(c), but PEF has no obligation to do so.

Interrogatory 50: PEF objects to OPC's interrogatory number 50 because it calls for data from "Progress Energy (the holding company)" that is unrelated to PEF. The data requested is irrelevant to this case and has no bearing on this proceeding, nor is that data likely to lead to the discovery of admissible evidence. Furthermore, PEF objects to interrogatory number 50 because it calls for PEF to produce documents as if it were a request for production of documents rather than an interrogatory. In its discretion, PEF may elect to produce documents in response to an interrogatory pursuant to Rule 1.340(c), but PEF has no obligation to do so.

Interrogatory 53: PEF objects to OPC's interrogatory number 53(d) to the extent it calls for information protected by the attorney-client and/or the work product privileges.

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished electronically and via U.S. Mail this 12th day of May, 2005 to all counsel of record as indicated below.


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