

ORIGINAL

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 23, 2005

**PEF'S OBJECTIONS TO THE OFFICE OF PUBLIC COUNSEL'S FOURTH SET OF  
INTERROGATORIES TO PROGRESS ENERGY FLORIDA, INC. NOS. 171-206**

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") Third Set of Interrogatories to PEF, Nos. 171-206, and states as follows:

**GENERAL OBJECTIONS**

PEF respectfully must object to OPC's Fourth Set of Interrogatories, Nos. 171 through 206, to the extent that they are improper under the applicable rules and Order. With respect to the "Definitions" and "Instructions," PEF objects to any definitions or instructions that are

CMP \_\_\_\_\_  
COM \_\_\_\_\_ inconsistent with PEF's discovery obligations under applicable rules. If some question arises as  
CTR \_\_\_\_\_ to PEF's discovery obligations, PEF will comply with applicable rules and not with any of  
ECR \_\_\_\_\_  
GCL \_\_\_\_\_ OPC's definitions or instructions that are inconsistent with those rules. For example, PEF  
OPC \_\_\_\_\_ objects to OPC's request that PEF provide information in "a searchable electronic format"  
MMS \_\_\_\_\_ 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

SCR \_\_\_\_\_  
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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.

PEF must also object to OPC’s Fourth Set of Interrogatories to PEF to the extent that they require PEF or PEF’s retained experts to develop information or create material for OPC, presumably at PEF’s expense. The purpose of discovery, of course, is to obtain information that already exists, not to require the other side to create information or material for the requesting party. PEF, therefore, is not obligated to incur the expense of performing or having its experts perform work for OPC to create information or material that OPC seeks in these interrogatories. PEF must object to the request because it is improper discovery to serve interrogatories on PEF that require PEF to incur expense to do work or create information for another party.

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 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**

**Request 172:** Subject to the Company's general objections, and without waiving same, PEF must object to OPC's interrogatory number 172 because the interrogatory improperly requires PEF to do work for OPC that has not been prepared or done by PEF, presumably at PEF's cost, to provide the information requested. PEF does not maintain or track information in the specific manner that OPC has requested, therefore, an extensive effort is required to collect, assimilate, and analyze data to create the information that OPC requests. PEF is not required by the rules or Order to create information in order to respond to a discovery request.

**Request 178:** Subject to the Company's general objections, and without waiving same, PEF must object to OPC's interrogatory number 178 because the underlying data is no longer available from PEF's financial records due to the Company's data retention policy within the financial systems. As stated in 18 CFR Section 125.3, the retention policy for work order sheets that are necessary to respond to interrogatory number 178 is five years after clearance to plant account, provided continuing plant inventory records are maintained. Otherwise the policy is to retain the records for five years after the plant is retired. Moreover, the information requested pre-dates PEF's conversion of its work management computer system in 2001 and, as a result, an extensive, technical effort is required to even determine if the information continues to exist at all despite PEF's data retention policy. Because the interrogatory requests information from work orders in 1993 and 1998, which is more than five years ago and before the conversion of PEF's computer system in 2001, the information cannot be provided.

**Request 179:** Subject to the Company's general objections, and without waiving same, PEF must object to OPC's interrogatory number 179, subparts b, c, and d, because the underlying data is no longer available from PEF's financial records due to the Company's data

retention policy within the financial systems. As stated in 18 CFR Section 125.3, the retention policy for work order sheets that are necessary to respond to subparts b, c, and d of interrogatory 179 is five years after clearance to plant account, provided continuing plant inventory records are maintained. Otherwise the policy is to retain the records for five years after the plant is retired. Moreover, the information requested pre-dates PEF's conversion of its work management computer system in 2001 and, as a result, an extensive, technical effort is required to even determine if the information continues to exist at all despite PEF's data retention policy. Because the interrogatory requests information from work orders in 1993, 1994, and 1998, which is more than five years ago and before the conversion of PEF's computer system in 2001, the information cannot be provided.

**Request 181:** Subject to the Company's general objections, and without waiving same, PEF must object to OPC's interrogatory number 181 because the underlying data is no longer available from PEF's financial records due to the Company's data retention policy within the financial systems. As stated in 18 CFR Section 125.3, the retention policy for work order sheets that are necessary to respond to interrogatory number 181 is five years after clearance to plant account, provided continuing plant inventory records are maintained. Otherwise the policy is to retain the records for five years after the plant is retired. Moreover, the information requested pre-dates PEF's conversion of its work management computer system in 2001 and, as a result, an extensive, technical effort is required to even determine if the information continues to exist at all despite PEF's data retention policy. Because the interrogatory requests information from work orders in 1993, which is more than five years ago and before the conversion of PEF's computer system in 2001, the information cannot be provided.

**Request 182:** Subject to the Company's general objections, and without waiving same, PEF must object to OPC's interrogatory number 182 because the underlying data is no longer available from PEF's financial records due to the Company's data retention policy within the financial systems. As stated in 18 CFR Section 125.3, the retention policy for work order sheets that are necessary to respond to interrogatory number 182 is five years after clearance to plant account, provided continuing plant inventory records are maintained. Otherwise the policy is to retain the records for five years after the plant is retired. Moreover, the information requested pre-dates PEF's conversion of its work management computer system in 2001 and, as a result, an extensive, technical effort is required to even determine if the information continues to exist at all despite PEF's data retention policy. Because the interrogatory requests information from work orders in 1997 through 1999, which is more than five years ago and before the conversion of PEF's computer system in 2001, the information cannot be provided.

**Request 189:** Subject to the Company's general objections, and without waiving same, PEF must object to OPC's interrogatory number 189 because the interrogatory improperly requires PEF to do work for OPC that has not been prepared or done by PEF, presumably at PEF's cost, to provide the information requested. PEF does not maintain or track information in the specific manner that OPC has requested, therefore, an extensive effort is required to collect, assimilate, and analyze data to create the information that OPC requests. PEF is not required by the rules or Order to create information in order to respond to a discovery request.

**Request 190:** Subject to the Company's general objections, and without waiving same, PEF must object to OPC's interrogatory number 190 because the interrogatory is overbroad and because the underlying data is no longer available from PEF's financial records due to the Company's data retention policy within the financial systems. As stated in 18 CFR Section

125.3, the retention policy for work order sheets that are necessary to respond to interrogatory number 190 is five years after clearance to plant account, provided continuing plant inventory records are maintained. Otherwise the policy is to retain the records for five years after the plant is retired. Moreover, the information requested pre-dates PEF's conversion of its work management computer system in 2001 and, as a result, an extensive, technical effort is required to even determine if the information continues to exist at all despite PEF's data retention policy. To the extent interrogatory number 190 is directed at information from work orders more than five years ago and before the conversion of PEF's computer system in 2001, the information cannot be provided. PEF must further object to interrogatory number 190 because the interrogatory improperly requires PEF to do work for OPC that has not been prepared or done by PEF, presumably at PEF's cost, to provide the information requested. PEF does not maintain or track information in the specific manner that OPC has requested, therefore, an extensive effort is required to collect, assimilate, and analyze data to create the information that OPC requests. PEF is not required by the rules or Order to create information in order to respond to a discovery request.

**Request 191:** Subject to the Company's general objections, and without waiving same, PEF must object to OPC's interrogatory number 191 because the interrogatory is overbroad and because the underlying data is no longer available from PEF's financial records due to the Company's data retention policy within the financial systems. As stated in 18 CFR Section 125.3, the retention policy for work order sheets that are necessary to respond to interrogatory number 191 is five years after clearance to plant account, provided continuing plant inventory records are maintained. Otherwise the policy is to retain the records for five years after the plant is retired. Moreover, the information requested pre-dates PEF's conversion of its work

management computer system in 2001 and, as a result, an extensive, technical effort is required to even determine if the information continues to exist at all despite PEF's data retention policy. To the extent interrogatory number 191 is directed at information from work orders more than five years ago and before the conversion of PEF's computer system in 2001, the information cannot be provided. PEF must further object to interrogatory number 191 because the interrogatory improperly requires PEF to do work for OPC that has not been prepared or done by PEF, presumably at PEF's cost, to provide the information requested. PEF does not maintain or track information in the specific manner that OPC has requested, therefore, an extensive effort is required to collect, assimilate, and analyze data to create the information that OPC requests. PEF is not required by the rules or Order to create information in order to respond to a discovery request.

**Request 192:** Subject to the Company's general objections, and without waiving same, PEF must object to OPC's interrogatory number 192 because the interrogatory improperly requires PEF to do work for OPC that has not been prepared or done by PEF, presumably at PEF's cost, to provide the information requested. PEF does not maintain or track information in the specific manner that OPC has requested, therefore, an extensive effort is required to collect, assimilate, and analyze data to create the information that OPC requests. PEF is not required by the rules or Order to create information in order to respond to a discovery request. PEF further objects to interrogatory number 192 to the extent it requests information on "other emergency situations" on the grounds that it is vague, ambiguous, and confusing because PEF does not know what OPC means by "emergency situations" and, therefore, PEF cannot respond.

**Request 195:** Subject to the Company's general objections, and without waiving same, PEF must object to OPC's interrogatory number 195 to the extent the request is for information

for the past 10 years because the interrogatory is overbroad and because the underlying data is no longer available from PEF's financial records due to the Company's data retention policy within the financial systems. As stated in 18 CFR Section 125.3, the retention policy for work order sheets that are necessary to respond to interrogatory number 195 is five years after clearance to plant account, provided continuing plant inventory records are maintained. Otherwise the policy is to retain the records for five years after the plant is retired. Moreover, the information requested pre-dates PEF's conversion of its work management computer system in 2001 and, as a result, an extensive, technical effort is required to even determine if the information continues to exist at all despite PEF's data retention policy. To the extent interrogatory number 195 is directed at information from work orders more than five years ago and before the conversion of PEF's computer system in 2001, the information cannot be provided. PEF must further object to interrogatory number 195 because the interrogatory improperly requires PEF to do work for OPC that has not been prepared or done by PEF, presumably at PEF's cost, to provide the information requested. PEF does not maintain or track information in the specific manner that OPC has requested, therefore, an extensive effort is required to collect, assimilate, and analyze data to create the information that OPC requests. PEF is not required by the rules or Order to create information in order to respond to a discovery request. Subject to these objections, and without waiving same, PEF will provide information that is reasonably available to PEF in the format or manner that it is maintained by PEF in response to interrogatory number 195.

**Request 196:** Subject to the Company's general objections, and without waiving same, PEF must object to OPC's interrogatory number 196 to the extent the request is for information for the past 10 years because the interrogatory is overbroad and because the underlying data is no longer available from PEF's financial records due to the Company's data retention policy within

the financial systems. As stated in 18 CFR Section 125.3, the retention policy for work order sheets that are necessary to respond to interrogatory number 196 is five years after clearance to plant account, provided continuing plant inventory records are maintained. Otherwise the policy is to retain the records for five years after the plant is retired. Moreover, the information requested pre-dates PEF's conversion of its work management computer system in 2001 and, as a result, an extensive, technical effort is required to even determine if the information continues to exist at all despite PEF's data retention policy. To the extent interrogatory number 196 is directed at information from work orders more than five years ago and before the conversion of PEF's computer system in 2001, the information cannot be provided. PEF must further object to interrogatory number 196 because the interrogatory improperly requires PEF to do work for OPC that has not been prepared or done by PEF, presumably at PEF's cost, to provide the information requested. PEF does not maintain or track information in the specific manner that OPC has requested, therefore, an extensive effort is required to collect, assimilate, and analyze data to create the information that OPC requests. PEF is not required by the rules or Order to create information in order to respond to a discovery request. Subject to these objections, and without waiving same, PEF will provide information that is reasonably available to PEF in the format or manner that it is maintained by PEF in response to interrogatory number 196.

**Request 198:** Subject to the Company's general objections, and without waiving same, PEF must object to OPC's interrogatory number 198 to the extent the request is for information for the past 10 years because the interrogatory is overbroad and because the underlying data is no longer available from PEF's financial records due to the Company's data retention policy within the financial systems. As stated in 18 CFR Section 125.3, the retention policy for work order sheets that are necessary to respond to interrogatory number 198 is five years after clearance to

plant account, provided continuing plant inventory records are maintained. Otherwise the policy is to retain the records for five years after the plant is retired. Moreover, the information requested pre-dates PEF's conversion of its work management computer system in 2001 and, as a result, an extensive, technical effort is required to even determine if the information continues to exist at all despite PEF's data retention policy. To the extent interrogatory number 198 is directed at information from work orders more than five years ago and before the conversion of PEF's computer system in 2001, the information cannot be provided. PEF must further object to interrogatory number 198 because the interrogatory improperly requires PEF to do work for OPC that has not been prepared or done by PEF, presumably at PEF's cost, to provide the information requested. PEF does not maintain or track information in the specific manner that OPC has requested, therefore, an extensive effort is required to collect, assimilate, and analyze data to create the information that OPC requests. PEF is not required by the rules or Order to create information in order to respond to a discovery request.

**Request 201:** Subject to the Company's general objections, and without waiving same, PEF must object to OPC's interrogatory number 201 to the extent the request is for information for the past 10 years because the interrogatory is overbroad and because the underlying data is no longer available from PEF's financial records due to the Company's data retention policy within the financial systems. As stated in 18 CFR Section 125.3, the retention policy for work order sheets that are necessary to respond to interrogatory number 201 is five years after clearance to plant account, provided continuing plant inventory records are maintained. Otherwise the policy is to retain the records for five years after the plant is retired. Moreover, the information requested pre-dates PEF's conversion of its work management computer system in 2001 and, as a result, an extensive, technical effort is required to even determine if the information continues

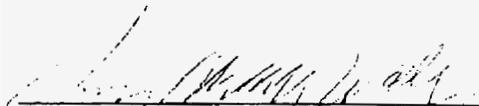
to exists at all despite PEF's data retention policy. To the extent interrogatory number 201 is directed at information from work orders more than five years ago and before the conversion of PEF's computer system in 2001, the information cannot be provided. PEF must further object to interrogatory number 201 because the interrogatory improperly requires PEF to do work for OPC that has not been prepared or done by PEF, presumably at PEF's cost, to provide the information requested. PEF does not maintain or track information in the specific manner that OPC has requested, therefore, an extensive effort is required to collect, assimilate, and analyze data to create the information that OPC requests. PEF is not required by the rules or Order to create information in order to respond to a discovery request.

**Request 202:** Subject to the Company's general objections, and without waiving same, PEF must object to OPC's interrogatory number 202 to the extent the request is for information for the past 10 years because the interrogatory is overbroad and because the underlying data is no longer available from PEF's financial records due to the Company's data retention policy within the financial systems. As stated in 18 CFR Section 125.3, the retention policy for work order sheets that are necessary to respond to interrogatory number 202 is five years after clearance to plant account, provided continuing plant inventory records are maintained. Otherwise the policy is to retain the records for five years after the plant is retired. Moreover, the information requested pre-dates PEF's conversion of its work management computer system in 2001 and, as a result, an extensive, technical effort is required to even determine if the information continues to exists at all despite PEF's data retention policy. To the extent interrogatory number 202 is directed at information from work orders more than five years ago and before the conversion of PEF's computer system in 2001, the information cannot be provided. PEF must further object to interrogatory number 202 because the interrogatory improperly requires PEF to do work for OPC

that has not been prepared or done by PEF, presumably at PEF's cost, to provide the information requested. PEF does not maintain or track information in the specific manner that OPC has requested, therefore, an extensive effort is required to collect, assimilate, and analyze data to create the information that OPC requests. PEF is not required by the rules or Order to create information in order to respond to a discovery request.

**Request 203:** Subject to the Company's general objections, and without waiving same, PEF must object to OPC's interrogatory number 203 to the extent the request is for information regarding policies or practices back to 1975 because the interrogatory is overbroad, is irrelevant, and is not likely to lead to the discovery of admissible evidence in this proceeding. PEF will respond to this part of interrogatory number 203 using a reasonable time period for the response.

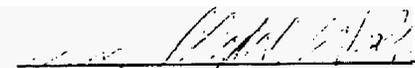
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**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished electronically and via U.S. Mail this 3<sup>rd</sup> day of May, 2005 to all counsel of record as indicated below.

  
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