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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

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IN RE: Fuel and Purchase Power )  
Cost Recovery Clause and Generating )  
Performance Incentive Factor )

Docket No. 060001 COMMISSION CLERK  
Filed: July 27<sup>th</sup>, 2006

**PEF'S OBJECTIONS TO OPC'S SEVENTH REQUEST FOR PRODUCTION OF DOCUMENTS (NOS. 39-40)**

Pursuant to Fla. Admin. Code R. 28-106.206 and Rule 1.350 of the Florida Rules of Civil Procedure, Progress Energy Florida, Inc. ("PEF") hereby serves its objections to the Office of Public Counsel's ("OPC's") Seventh Set of Requests for Production of Documents (Nos. 39-40) and states as follows:

**GENERAL OBJECTIONS**

PEF generally objects to the time and place of production requirement in OPC's Seventh Set of Requests for Production of Documents and will make all responsive documents available for inspection and copying at the offices of Progress Energy Florida, Inc., 106 E. College Avenue, Suite 800, Tallahassee, Florida, 32301 at a mutually-convenient time, or will produce the documents in some other manner or at some other place that is mutually convenient to both PEF and OPC for purposes of inspection, copying (at OPC's expense), or handling of the responsive documents.

With respect to the "Definitions" and "Instructions" in OPC's Seventh Request for Production of Documents (Nos. 39-40), 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

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and not with any of OPC's definitions or instructions that are inconsistent with those rules. Furthermore, PEF objects to any definition or request that seeks to encompass persons or entities, including affiliates of PEF and/or Progress Fuels, who are not parties to this action or who are not subject to discovery under the applicable rules. Furthermore, PEF objects to any request that can be construed to call for PEF to create documents that it otherwise does not have because there is no such requirement under the applicable rules and law.

Additionally, PEF generally objects to OPC's requests to the extent that they call for 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. PEF will provide a privilege log in accordance with the applicable law to the extent, if at all, that any document request calls for the production of privileged or protected documents.

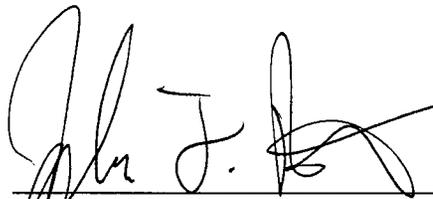
PEF generally objects to OPC's Seventh Set of Request for Production of Documents to the extent that it calls for the production of "all" documents of any nature, including, every copy of every document responsive to the requests. PEF will make a good faith, reasonably diligent attempt to identify and obtain responsive documents when no objection has been asserted to the production of such documents, but it is not practicable or even possible to identify, obtain, and produce "all" documents. In addition, PEF reserves the right to supplement any of its responses to OPC's requests for production if PEF cannot produce documents immediately due to their magnitude and the work required to aggregate them, or if PEF later discovers additional responsive documents in the course of this proceeding.

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.

**SPECIFIC OBJECTIONS**

**Request for Production No. 39:** PEF objects to Request for Production of Documents No. 39 to the extent that it asks PEF to create information or materials for OPC, presumably at PEF's expense. Under governing rules, PEF is not obligated to create information or materials that do not presently exist. PEF will respond to the request to the extent that the information or materials requested already exist.

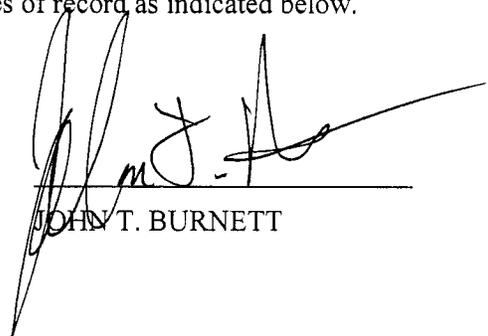
**Request for Production No. 40:** PEF objects to Request for Production of Documents No. 40 to the extent that it asks PEF to create information or materials for OPC, presumably at PEF's expense. Under governing rules, PEF is not obligated to create information or materials that do not presently exist. PEF will respond to the request to the extent that the information or materials requested already exist.



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**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished via U.S. Mail this 2<sup>nd</sup> day of July, 2006 to all parties of record as indicated below.



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