

ORIGINAL

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

RECEIVED-PEF-OPC
COMMISSION CLERK
DEC-4 4 06
11:14:04

In re: Petition on behalf of Citizens of the
State of Florida to require Progress Energy
Florida, Inc. to refund to customers \$143 million

Docket No. 060658-EI

Submitted for Filing: December 4, 2006

**PEF'S OBJECTIONS TO OPC'S FIRST
REQUEST TO PRODUCE DOCUMENTS (Nos. 1-4)**

Pursuant to Fla. Admin. Code R. 28-106.206, Rule 1.340 of the Fla. R. Civ. P., Progress Energy Florida, Inc. ("PEF") hereby serves its objections to the Office of Public Counsel's ("OPC's") First Request to Produce Documents (Nos. 1-4) and states as follows:

Pursuant to Fla. Admin. Code R. 28-106.206, Rule 1.350 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'S") First Request to Produce Documents (Nos. 1-4) and states as follows:

GENERAL OBJECTIONS

PEF generally objects to the time and place of production requirement in OPC's First Request to Produce Documents and will make all responsive documents available for inspection and copying at the offices of Progress Energy Florida, Inc., 106 E. College Ave., Tallahassee, Florida, 32301 at a mutually-

CMP convenient time, or will produce the documents in some other manner or at some other place that is

COM mutually convenient to both PEF and OPC for purposes of inspection, copying, or handling of the

CTR
ECR responsive documents.

GCL With respect to the "Definitions" in OPC's First Request to Produce Documents, PEF objects to

OPC any definitions or instructions that are inconsistent with PEF's discovery obligations under applicable

RCA rules. If some question arises as to PEF's discovery obligations, PEF will comply with applicable rules

SCR
SGA and not with any of OPC's definitions or instructions that are inconsistent with those rules. PEF also

SEC 1 objects to any request that calls for documents to be produced from the files of PEF's outside or in-house

OTH counsel in this matter because such documents are privileged and/or work product and are otherwise not

RECEIVED & FILED
M. Blockland
FPSC BUREAU OF RECORDS

STP#627694.1

DOCUMENT NUMBER-DATE

11116 DEC-4 06

FPSC-COMMISSION CLERK

within the scope of discovery under the applicable rules and law. Furthermore, PEF objects to any definition or request 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 requests will be made on behalf of persons or entities other than PEF. Furthermore, PEF objects to any request that calls 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 or as may be agreed to by the parties to the extent, if at all, that any document request calls for the production of privileged or protected documents.

Further, in certain circumstances, PEF may determine upon investigation and analysis that documents responsive 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 provide such information in response to such a request, 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 generally objects to OPC's First Request to Produce 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.

PEF also objects to any request that calls for projected data or information beyond the year 2006 or prior to 2004 because such data or information is wholly 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 a request does not specify a timeframe for which data or information is sought, PEF will interpret such request as calling only for data and information relevant to the years 2004-2006.

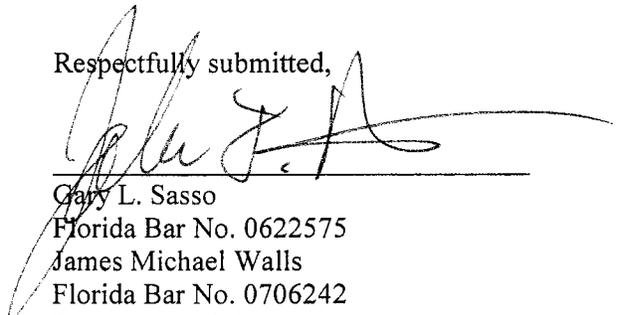
By making these general objections at this time, PEF does not waive or relinquish its right to assert additional general and specific objections to OPC's discovery at the time PEF's response is due under the Florida Rules of Civil Procedure and the Order Establishing Procedure. PEF provides these general 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 1: PEF objects to OPC's request number 1 because that request calls for documents referred to in an interrogatory to which PEF has already specifically objected. PEF specifically incorporates its objection to interrogatory 19 as if fully stated herein.

R. Alexander Glenn
Deputy General Counsel – Florida
John T. Burnett
Associate General Counsel
PROGRESS ENERGY SERVICE
COMPANY, LLC
Post Office Box 14042
St. Petersburg, FL 33733-4042
Telephone: (727) 820-5587
Facsimile: (727) 820-5519

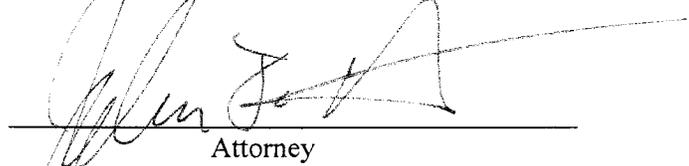
Respectfully submitted,



Gary L. Sasso
Florida Bar No. 0622575
James Michael Walls
Florida Bar No. 0706242
Dianne M. Triplett
Florida Bar No. 0872431
CARLTON FIELDS, P.A.
4421 W. Boy Scout Blvd., Ste. 1000 (33607)
Ste. 1000 (33607)
Post Office Box 3239
Tampa, FL 33601-3239
Telephone: (813) 223-7000
Facsimile: (813) 229-4133

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of Progress Energy Florida, Inc.'s Objections to Citizens; First Request for Production (Nos. 1-4), in Docket No. 060658-EI has been furnished by regular U.S. mail to the following this 4th day of December, 2006.



Attorney

Lisa Bennett, Esq.
Florida Public Service Commission
2540 Shumard Oak Blvd.
Tallahassee, FL 32399-0850

Timothy J. Perry, Esq.
McWhirter, Reeves et al.
117 South Gadsden Street
Tallahassee, FL 32301

Lee L. Willis, Esq.
James D. Beasley, Esq.
Ausley & McMullen
P.O. Box 391
Tallahassee, FL 32302

Karen S. White, Lt. Col., USAF
Damund E. Williams, Capt., USAF
AFLSA/JACL-ULT
139 Barnes Drive, Suite 1
Tyndall AFB, FL 32403-5319

Jeffrey A. Stone
Russell A. Badders
Steven R. Griffin
Beggs & Lane
P.O. Box 12950
Pensacola, FL 32591

Ms. Brenda Irizarry
Administrator, Regulatory Coordination
Tampa Electric Company
P.O. Box 111
Tampa, FL 33601-0111

Norman Horton, Jr.
Messer, Caparello & Self, P.A.
P.O. Box 15579
Tallahassee, FL 32317

Joseph A. McGlothlin, Esq.
Office of Public Counsel
111 W. Madison St., Room 812
Tallahassee, FL 32399

Florida Industrial Power Users Group
c/o John W. McWhirter, Jr.
McWhirter Reeves
400 North Tampa Street, Suite 2450
Tampa, FL 33602

Ms. Cheryl Martin
Florida Public Utilities Company
P.O. Box 3395
West Palm Beach, FL 33402-3395

Young van Assenderp, P.A.
Robert Scheffel Wright/John LaVia, III
225 South Adams St., Suite 200
Tallahassee, Florida 32301

Florida Power & Light Co.
R. Wade Litchfield, Esq.
John T. Butler
Natalie Smith
700 Universe Blvd.
Juno Beach, FL 33408-0420

Florida Power & Light Co.
Bill Walker
215 S. Monroe Street, Suite 810
Tallahassee, FL 32301

Florida Retail Federation
100 E. Jefferson St.
Tallahassee, FL 32301

Susan D. Ritenour
Richard McMillan
Gulf Power Company
One Energy Place
Pensacola, FL 32520-0780

James W. Brew
Brickfield, Burchette, Ritts & Stone, P.C.
1025 Thomas Jefferson St. NW
8th Floor, West Tower
Washington, DC 20007-5201

Michael B. Twomey
P.O. Box 5256
Tallahassee, FL 32314-5256

Jack Shreve
Senior General Counsel
Cecilia Bradley
Senior Assistant Attorney General
Office of the Attorney General
The Capitol – PL01
Tallahassee, FL 32399-1050