

Timolyn Henry

From: Dana Greene [DanaG@hgslaw.com]
Sent: Monday, February 26, 2007 4:17 PM
To: Filings@psc.state.fl.us
Cc: mcglothlin.joseph@leg.state.fl.us; Alex.Glenn@pgnmail.com; Paul.LewisJr@pgnmail.com; Lisa Bennett; Martha Brown
Subject: Docket 060162-EI
Attachments: Docket 060162 - PEF's Objections to Commission Staff's First Set of Interrgatories.pdf



Docket 060162 -
PEF's Objectio...

Electronic Filing

a. Person responsible for this electronic filing:

Virginia C. Dailey
Hopping Green & Sams, P.A.
123 S. Calhoun Street
Tallahassee, FL 32301
850-425-2328
virginiad@hgslaw.com

b. Docket No. 060162-EI

In re: Petition by Progress Energy Florida, Inc. for approval to recover modular cooling tower costs through the fuel cost recovery clause

c. Document being filed on behalf of Progress Energy Florida, Inc.

d. There are a total of 5 pages.

e. The document attached for electronic filing is Progress Energy Florida's Objections to Commission Staff's First Set of Interrogatories (Nos. 1-8)

Thank you for your cooperation.

Dana Greene, Legal Assistant to
William H. Green, Gary V. Perko & Virginia C. Dailey Hopping Green & Sams, P.A.
123 South Calhoun Street
P.O. Box 6526
Tallahassee, Florida 32314
850-425-3437 (direct)
850-224-8551 (fax)
danag@hgslaw.com

BEFORE THE PUBLIC SERVICE COMMISSION

In re: Petition by Progress Energy Florida, Inc. for approval to recover modular cooling tower costs through environmental cost recovery clause.

DOCKET NO. 060162-EI

DATED: FEBRUARY 26, 2007

PROGRESS ENERGY FLORIDA'S OBJECTIONS TO COMMISSION STAFF'S FIRST SET OF INTERROGATORIES (NOS. 1 - 8)

PROGRESS ENERGY FLORIDA ("PEF") hereby submits the following Objections and Requests for Clarifications to the Commission Staff's First Set of Interrogatories (Nos. 1-8), pursuant to Rule 1.340, Florida Rules of Civil Procedure, and Rule 28-106.206, Florida Administrative Code:

GENERAL OBJECTIONS

1. PEF objects to each and every discovery request, to the extent that it calls for 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, whether such privilege or protection appears at the time response is first made or is later determined to be applicable for any reason. PEF in no way intends to waive any such privilege or protection. The nature of any such document(s) will be described in a privilege log filed/prepared by PEF.

2. PEF objects to providing information that is proprietary, confidential business information without provisions in place to protect the confidentiality of the information. PEF in no way intends to waive claims of confidentiality.

3. PEF objects to each discovery request and any instructions that purport to expand PEF's obligations under applicable law.

4. PEF is a large corporation with employees located in many different locations. In the course of its business, PEF creates numerous documents that are not subject to Florida Public Service Commission or other governmental record retention requirements. These documents are kept in numerous locations and frequently are moved from site to site as employees change jobs or as business is reorganized. Therefore, it is possible that not every relevant document may have been consulted in developing PEF's responses to the discovery requests. Rather, these responses provide all the information that PEF obtained after a reasonable and diligent search conducted in connection with these discovery requests. To the extent that the discovery requests propose to require more, PEF objects on the grounds that compliance would impose an undue burden or expense on PEF. PEF reserves the right to supplement any of its responses to Commission Staff's requests 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.

5. PEF objects to each discovery request to the extent that it seeks information that is not relevant to the subject matter of this docket and is not reasonable calculated to lead to the discovery of admissible evidence.

6. PEF objects to each and every discovery request to the extent that it is vague, ambiguous, overly broad, imprecise, or utilizes terms that are subject to multiple interpretations but are not properly defined or explained for purposes of such discovery requests.

7. PEF expressly reserves and does not waive any and all objections it may have to the admissibility, authenticity, or relevancy of the information provided in its responses to Staff's discovery requests.

8. 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.

SPECIFIC OBJECTIONS

Interrogatory No. 3. For purposes of preparing and filing a need determination, please list each type of cost that is non-fuel.

Objections: PEF objects to Interrogatory No. 3 on the grounds that it is vague, ambiguous, overly broad, and not reasonably calculated to lead to admissible evidence. Because this is not a need proceeding, the requested information is irrelevant and is not reasonably calculated to lead to admissible evidence. Furthermore, costs included in need filings are not specifically categorized as “non-fuel.” To the extent this interrogatory seeks to require PEF to categorize each and every cost item that might be included in a hypothetical need filing, the interrogatory is vague, ambiguous and unduly burdensome. The types of costs included in need filings vary widely depending upon the type of proposed unit and multiple other factors.

Interrogatory No. 4. For purposes of preparing and filing a need determination, please list each type of cost that is an environmental compliance cost.

Objections: PEF objects to Interrogatory No. 4 on the grounds that it is vague, ambiguous, overly broad, and not reasonably calculated to lead to admissible evidence. Because this is not a need proceeding, the requested information is irrelevant and is not reasonably calculated to lead to admissible evidence. To the extent this interrogatory seeks to require PEF to categorize each

and environmental compliance cost that might be included in a hypothetical need filing, the interrogatory is vague, ambiguous and unduly burdensome. The types of environmental costs included in need filings vary depending upon the type of proposed unit and multiple other factors.

Respectfully submitted this 26th day of February 2007.

R. Alexander Glenn
Florida Bar No. 0097896
Deputy General Counsel
Progress Energy Service Company, L.L.C.
299 1st Avenue, N.
St. Petersburg, FL 33701
alex.glenn@pgnmail.com

Virginia C. Dailey
FOR Gary V. Perko
Florida Bar No. 855898
Carolyn S. Raepple
Florida Bar No. 329142
Hopping Green & Sams, P.A.
Post Office Box 6526
Tallahassee, FL 32314
garyp@hgslaw.com
carolynr@hgslaw.com
Tel.: 850-425-2359; Fax: 850-224-8551

Attorneys for PROGRESS ENERGY FLORIDA

CERTIFICATE OF SERVICE

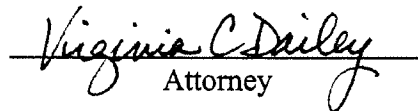
I HEREBY CERTIFY that a true and correct copy of PROGRESS ENERGY FLORIDA'S OBJECTIONS TO COMMISSION STAFF'S FIRST SET OF INTERROGATORIES (NOS. 1 - 8) has been served on the following by U. S. and/or electronic* Mail this 26th day of February, 2007:

Lisa C. Bennett (*)
Martha Carter Brown (*)
Office of General Counsel
Florida Public Service Commission
2540 Shumard Oak Blvd.
Tallahassee, FL 32399-0850

R. Alexander Glenn
Deputy General Counsel - Florida
Progress Energy Service Company, LLC
Post Office Box 14042
St. Petersburg, FL 33733

Joseph McGlothlin, Esq.
Office of Public Counsel
111 W. Madison Street, Room 812
Tallahassee, Florida 32399-1400

Paul Lewis, Jr.
Progress Energy Florida, Inc.
106 East College Avenue, Suite 800
Tallahassee, FL 32301-7740


Attorney