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Subject: Emailing: Docket 100437 PEF Objections to Citizens 7th Req for Prod.pdf
Attachments: Docket 100437 PEF Objections to Citizens 7th Req for Prod.pdf

Docket No. 100437-EI

In re: Examination of the outage and replacement fuel/power costs associated with the CR3 steam generator replacement project, by Progress Energy Florida, Inc.

Attached for filing is

1. Progress Energy Florida, Inc.'s Objections Citizens Seventh Set of Requests for Production of Documents (Nos. 63-66).
2. This document contains five (5) pages and is being filed on behalf of Progress Energy Florida, Inc.
3. This document is being filed by

Jeanne Costello on behalf of Blaise N. Gamba CARLTON FIELDS

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FILED

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FPSC-COMMISSION CLERK

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Examination of the outage and replacement
fuel/power costs associated with the CR3 steam generator
replacement project, by Progress Energy Florida, Inc.

Docket No. 100437-EI
Filed: February 18, 2013

**PROGRESS ENERGY FLORIDA, INC.'S OBJECTIONS TO
CITIZENS' SEVENTH SET OF REQUESTS FOR PRODUCTION
OF DOCUMENTS (NOS. 63-66)**

Pursuant to Fla. Admin. Code R. 28-106.206, Rules 1.280 and 1.350 of the Florida Rules of Civil Procedure, and the Second Revised Order Establishing Procedure, Order No. PSC-13-0084-PCO-EI, issued February 13, 2013 (the "Order"), in this matter, Progress Energy Florida, Inc. ("PEF" or the "Company") hereby makes its objections to the Office of Public Counsel's ("Citizens" or "OPC") Seventh Set of Requests for Production of documents (Nos.63-66) and states as follows:¹

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 Ave., 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, or handling of the responsive documents.

¹ PEF asserts that discovery on the Phase III docket was premature at the time of the service of these Requests on February 12, 2013, and objects to responding within the time frame indicated in the Order. Nevertheless, PEF is providing its general and specific objections in accordance with the time frame sent out in the Order in an abundance of caution.

With respect to the “Definitions” and “Instructions” in OPC’s Seventh Set of Requests for Production of Documents:

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 within a reasonable time or as may be agreed to by the parties to the extent that a 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. 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, and all other applicable statutes, rules, and legal principles.

PEF also generally objects to OPC’s Seventh Set of Requests 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 aggregating them, or if PEF later discovers additional responsive documents in the course of this proceeding.

In addition, PEF object to OPC's Instructions and Definitions, in particular, OPC Definitions Numbers 2, 3, and 4, to the extent they seek to encompass documents or information from persons or entities other than PEF who are not parties to this Docket, who are not otherwise subject to discovery under the applicable rules and law, and to the extent these definitions request documents outside of PEF's possession, custody, or control. 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 applicable law.

Finally, PEF objects to OPC Instruction Number 2 as overbroad, and not relevant or reasonably calculated to lead to the discovery of admissible evidence relative to the issues in this Docket to the extent the instruction extends OPC's request for documents prior to 2009. Subject to its general and specific objections, PEF will produce responsive documents to the extent they exist.

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.

SPECIFIC OBJECTIONS AND RESPONSES

OPC Request Number 64:

SPECIFIC OBJECTION: PEF objects to this request to the extent the request calls for the production of documents protected by the attorney-client privilege, the work product doctrine, or other applicable privilege or protection afforded by law. PEF will provide a

privilege log within a reasonable time or as may be agreed to by the parties to the extent that the document request calls for the production of privileged or protected documents.

OPC Request Number 65:

SPECIFIC OBJECTION: PEF objects to this request to the extent the request calls for the production of documents protected by the attorney-client privilege, the work product doctrine, or other applicable privilege or protection afforded by law. PEF will provide a privilege log within a reasonable time or as may be agreed to by the parties to the extent that the document request calls for the production of privileged or protected documents.

OPC Request Numbers 66 (a)-(d):

SPECIFIC OBJECTION: PEF objects to this request to the extent the request calls for the production of documents protected by the attorney-client privilege, the work product doctrine, or other applicable privilege or protection afforded by law. PEF will provide a privilege log within a reasonable time or as may be agreed to by the parties to the extent that the document request calls for the production of privileged or protected documents.

Respectfully submitted,

s/ Blaise . N. Gamba

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY a true and correct copy of the foregoing has been furnished to counsel and parties of record as indicated below via electronic and U.S. Mail this 18th day of February, 2013.

s/ Blaise . N. Gamba

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