

ORIGINAL

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Review of Florida Power Corporation's Earnings, Including Effects of Proposed Acquisition of Florida Power Corporation by Carolina Power & Light

DOCKET NO. 000824-EI

Submitted for Filing: November 13, 2001

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FLORIDA POWER CORPORATION'S RESPONSE TO CITIZENS' FOURTH SET OF REQUESTS FOR PRODUCTION OF DOCUMENTS TO FPC

Pursuant to § 350.0611(1), Fla. Stat. (2000), Fla. Admin. Code R. 28-106.206, and Fla. R. Civ. P.1.340, Florida Power Corporation ("FPC") responds to the Florida Citizens' ("Citizens") Fourth Set of Production of Documents and states as follows:

GENERAL OBJECTIONS

FPC objects to the request that documents be produced at the Office of Public Counsel, Claude Pepper Building, 111 West Madison Street, Room 812, Tallahassee, Florida 32399-1400. FPC is required only to produce documents at a reasonable time, place and manner.

FPC objects to any request that calls for the production of 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, whether such privilege or protection appears at the time the response is first made to these requests or is later determined to be applicable based on the discovery of documents, investigation or analysis. FPC

in no way intends to waive any such privilege or protection.

In certain circumstances, FPC may determine upon investigation and analysis that documents that respond to certain requests to which objections are not otherwise asserted are

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confidential and proprietary and should be produced only under an appropriate confidentiality agreement and protective order, if at all. By agreeing to produce documents in response to this request, FPC is not waiving its right to insist upon appropriate protection of confidentiality by means of a confidentiality agreement and protective order. FPC hereby asserts its right to require such protection of any and all documents that may qualify for protection under the Florida Rules of Civil Procedure and other applicable statutes, rules and legal principles.

FPC further objects to these requests and any definitions or instructions that purport to expand FPC's obligations under applicable law.

FPC objects to any request that requires the production of "all" or "each" as it cannot give assurances, even after a good faith and reasonably diligent attempt, that "all" or "each" responsive document will be found. Indeed, it may well be impossible to assure compliance with the exercise of reasonable diligence.

FPC incorporates by reference all of the foregoing general objections into each of its specific objections set forth below as though pleaded therein.

Moreover, to the extent documents responsive to the requests have been previously produced, FPC will not be reproducing these documents but will attempt to make appropriate cross-references between and amongst the various requests.

### **SPECIFIC OBJECTIONS**

#### **Definitions**

FPC objects to the definition of "FPC", "you", "your" or the "Company" as including Florida Progress Corporation, Progress Energy, Inc., and Progress Energy Service Company, LLC. FPC does not have an obligation under the rules to produce materials in the hands of these companies, but FPC agrees to do so in any event to expedite discovery, to the extent such

documents are relevant to the issues in this case. FPC reserves the right to decline to produce any materials that are not pertinent to the issues in the case. FPC further objects to the definition of “FPC”, “you”, “your” or the “Company” to the extent it includes third parties whose documents are not within its possession, custody, or control.

FPC objects to the definition of the term “management” or “manager” as overbroad and ambiguous. FPC will attribute the usual and customary meaning of this word to its use in these requests.

### **Instructions**

FPC objects to the instructions calling upon FPC to provide designated information regarding any documents withheld from production to the extent it purports to expand FPC’s obligations. FPC will comply with its obligations under applicable rules of procedure.

FPC objects to the instruction to produce “originals” to the extent it purports to expand FPC’s obligations under the Uniform Rules and Florida Rule of Civil Procedure 1.350. FPC will comply with all applicable rules.

### **DOCUMENTS REQUESTED**

77. **Please provide all management audits which incorporated or included a review or analysis of affiliate transactions and cost allocations between and among affiliates, subsidiaries, and divisions of Progress Energy which have been conducted in whole or in part since January 1, 2000.**

None.

78. **Please provide copies of the two most recent Progress Energy and/or Progress Energy Service, LLC internal audit reports on the subject of affiliate transactions and/or cost allocations between affiliated companies.**

None.

79. **Please provide the workpapers and source documents used to develop the amount of carrying charges or allocated costs charged to Florida Power Corporation by any affiliate, subsidiary or division of the Progress Energy. These workpapers should include, where applicable, the return on investment used, the capital structure used, the return on equity used, the cost of debt used, and the investment to which the return is applied.**

FPC will make documents responsive to this request available for review at the offices of Carlton Fields in St. Petersburg, Florida at a time convenient to the parties or, upon request we will provide copies in Tallahassee as soon as practicable thereafter. Florida Power has previously produced documents relating to allocations by Progress Energy Services.

80. **Please provide the workpapers and source documents used to develop the amount of carrying charges or allocated costs charged to any affiliate, subsidiary, division, by Florida Power Corporation. These workpapers should include, where applicable, the return on investment used, the capital structure used, the return on equity used, the cost of debt used, and the investment to which the return is applied.**

FPC is seeking an extension of time to respond to this request. FPC will make documents responsive to this request available for review at the offices of Carlton Fields in St. Petersburg, Florida at a time convenient to the parties.

Respectfully submitted,



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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true copy of foregoing has been furnished by via U.S. Mail to the following this 13<sup>th</sup> day of November, 2001.

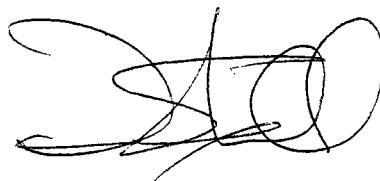
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