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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

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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

COMMISSION CLERK

Submitted for Filing:
January 28, 2002

FLORIDA POWER CORPORATION'S OBJECTIONS TO PUBLIX SUPER MARKETS, INC.'s THIRD REQUEST TO PRODUCE TO FLORIDA POWER CORPORATION

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") objects to Publix Super Market, Inc. ("Publix") Third Set of Requests for Production of Documents (Nos. 18-26) and states as follows:

GENERAL OBJECTIONS

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 confidential and proprietary and should be produced only under an appropriate confidentiality agreement and protective order, if at all. By agreeing to produce

- AUS _____
- CAF _____
- CMP _____
- COM _____
- CTR _____
- ECR _____
- GCL _____
- OPC _____
- MMS _____
- SEC _____
- OTH _____

DOCUMENT NUMBER-DATE

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FPSC-COMMISSION CLERK

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. In addition, FPC reserves its right to count production requests and their sub-parts (as permitted under the applicable rules of procedure) in determining whether it is obligated to respond to additional production requests served by any party.

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.

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, however, comply with all applicable rules.

DOCUMENTS REQUESTED

18. All direct, rebuttal, or sir-rebuttal testimony filed by the expert in the last five (5) years relating to the same and/or similar topic on which the expert is filing testimony in this proceeding.

19. All workpapers, spreadsheets, electronic files, or other materials referred to and/or relied upon by the expert in the course of preparing his/her testimony in this proceeding.

20. All databases (in electronic format) used by the expert in the course of preparing his/her testimony in this proceeding.

21. All articles published or submitted for publication by the expert in the last five (5) years on the same topic and/or a topic similar to the one that the expert is filing testimony on in this proceeding.

22. All texts, treatises, textbooks, or other materials referred to and/or relied upon by the witness in the course of preparing his/her testimony in this proceeding.

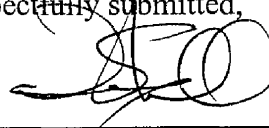
23. All documents, spreadsheets, data, on disk if available, used by the witness in the development of exhibits to his/her testimony, if any.

24. All source documents used to create the exhibits to the witness' testimony.

25. All orders in your possession, custody or control issued by state regulatory commissions on merger related issues.

26. All documents or other materials reviewed for any purpose, even if not relied on, by the witness in the course of preparing his/her testimony in this proceeding.

Respectfully submitted,



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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true copy of foregoing has been furnished via hand delivery (where indicated by *) and via U.S. Mail to the following on January 28, 2002.

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