

ORIGINAL

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Progress Energy Florida, Inc.'s )  
petition for approval of storm cost ) Docket No.: 041272  
recovery clause for extraordinary )  
expenditures related to Hurricanes )  
Charley, Frances, Jeanne, and Ivan. ) Submitted for Filing: November 29, 2004  
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**PROGRESS ENERGY FLORIDA INC.'S CLARIFICATIONS REGARDING  
OFFICE OF PUBLIC COUNSEL'S FIRST REQUEST FOR PRODUCTION OF  
DOCUMENTS (NOS. 1-11) AND OFFICE OF PUBLIC COUNSEL'S FIRST SET OF  
INTERROGATORIES (NOS. 1-11)**

Pursuant to Fla. Admin. Code R. 28-106.206, Rule 1.350 of the Florida Rules of Civil Procedure, and the Order Establishing Procedure issued November 18, 2004, Progress Energy Florida, Inc. ("PEF") hereby serves its clarifications to the Office of Public Counsel's ("OPC") First Request for Production of Documents (Nos. 1-11) and First Set of Interrogatories (Nos. 1-11) and states as follows:

**GENERAL CLARIFICATIONS**

With respect to the "Time and Place of Production" requirement in OPC's First Request for Production of Documents, PEF will make all responsive documents available for inspection and copying at the offices of Carlton Fields, P.A., 215 S. Monroe Street, Suite 500, Tallahassee, Florida, 32301 at a mutually-convenient time or, upon request from OPC, will provide copies of responsive documents and materials by U.S. Mail, overnight mail, 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.

With respect to the "Definitions" section in OPC's First Request for Production of Documents (No. 1-11), some of those definitions are inconsistent with PEF's discovery obligations under the applicable Rules of Civil Procedure. If some question arises as to PEF's

discovery obligations, PEF will comply with the applicable rules of civil procedure.

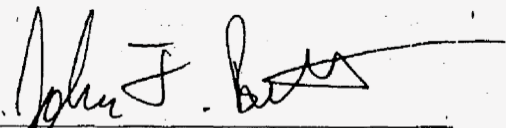
Additionally, PEF objects to OPC's definitions of the terms "you," "your," and "company" to the extent that OPC is attempting to seek documents protected by the attorney-client and/or work product privileges from PEF's attorneys, and further generally objects to OPC's discovery requests to the extent that they call for documents or 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. PEF will provide a privilege log in accordance with the applicable law 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 information responsive to certain document 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 document 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 documents 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.

By making these general clarifications at this time, PEF does not waive or relinquish its right to assert general and specific objections to OPC's discovery request at the time PEF's response is due to the discovery request under the Florida Rules of Civil Procedure and the Order Establishing Procedure. PEF provides these general clarifications 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.

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**Progress Energy Florida**

**Docket No. 041272-EI**

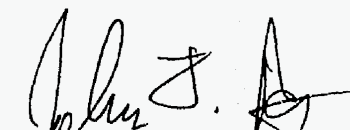
**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true copy of the foregoing has been furnished to the following individuals by electronic mail and regular U.S. Mail the 29<sup>th</sup> day of November, 2004.

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