

**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: January 3, 2005**  
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**PROGRESS ENERGY FLORIDA INC.'S OBJECTIONS REGARDING**  
**OFFICE OF PUBLIC COUNSEL'S SECOND REQUEST FOR PRODUCTION OF**  
**DOCUMENTS (NOS. 12-21)**

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 objections to the Office of Public Counsel's ("OPC") Second Request for Production of Documents (Nos. 12-21) and states as follows:

**GENERAL OBJECTIONS**

With respect to the "Time and Place of Production" requirement in OPC's Second 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" and "Instructions" sections in OPC's Second Request for Production of Documents (No. 12-21), 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 objections at this time, PEF does not waive or relinquish its right to assert additional 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 objections 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.

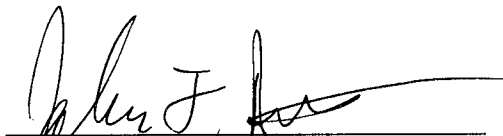
### **SPECIFIC OBJECTIONS**

PEF objects to OPC's request numbers 14, 15, 16, 17, and 18 in OPC's Second Request for Production of Documents because they call for information that is irrelevant to this proceeding and not likely to lead to the discovery of admissible evidence. Specifically, PEF's petition in this matter requests Commission approval of a Storm Cost Recovery Clause that allows PEF to recover its storm costs in excess of the balance in its Storm Damage Reserve. The recoverable storm costs are the Company's reasonable and prudent storm-related O&M costs including its incremental cost above those typically incurred under normal operating conditions for capital expenditures. Such costs are extraordinary, non-reoccurring, and unpredictable and therefore are not included in PEF's base rates.

OPC's requests, numbers 14, 15, 16, 17, and 18, have nothing to do with the storm costs that PEF incurred as a result of Hurricanes Charley, Frances, Jeanne, and Ivan that are the subject of this proceeding. They seek information regarding such wholly unrelated matters as the Company's nuclear decommissioning and fossil generation dismantlement costs. The requests at issue are, therefore, irrelevant and immaterial to this proceeding. Even if PEF provided the information requested in request numbers 14, 15, 16, 17, and 18 -- which it should not have to do in this limited proceeding addressing PEF's petition to establish a Storm Cost Recovery Clause to recover its extraordinary expenditures related to Hurricanes Charley, Frances, Ivan, and Jeanne -- its responses would not provide OPC with any information regarding

the prudence or reasonableness of the costs that PEF incurred preparing for, responding to, and recovering from Hurricanes Charley, Frances, Jeanne, and Ivan.

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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 3rd<sup>th</sup> day of January, 2005.

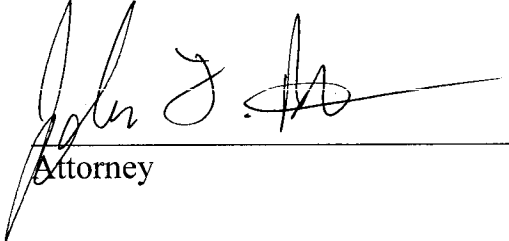
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