

**ORIGINAL**

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**Subject:** Docket No. 041271-EI

Attached herewith for filing are Progress Energy Florida, Inc.'s Objections to Hansen/Sugarmill Wood's First Set of Interrogatories to Progress Energy Florida (Nos. 1-44).

Confidential: This e-mail contains a communication protected by the attorney-client privilege. If you do not expect such a communication from Jeanne Costello on behalf of Gary Sasso, please delete this message without reading it or any attachment, and then notify Jeanne Costello at jcostello@carltonfields.com of this inadvertent mis-delivery.

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FPSC-COMMISSION CLERK

ORIGINAL

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Progress Energy Florida, Inc.'s )  
petition for approval of storm cost )  
recovery clause for extraordinary )  
expenditures related to Hurricanes )  
Charley, Frances, Jeanne, and Ivan. )  
\_\_\_\_\_ )

Docket No.: 041272-EI

PROGRESS ENERGY FLORIDA, INC.'S OBJECTIONS TO HANSEN/SUGARMILL  
WOOD'S FIRST SET OF INTERROGATORIES TO  
PROGRESS ENERGY FLORIDA (Nos. 1-44)

Progress Energy Florida, Inc. ("PEF") objects to Hansen/Sugarmill Wood's ("hereinafter collectively referred to as "Sugarmill") First Set of Interrogatories (Nos. 1-44) and states as follows:

GENERAL OBJECTIONS

With respect to the definitions and instructions in Sugarmill's First Set of Interrogatories (No. 1-44), PEF objects to any instructions that 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 generally objects to Sugarmill's interrogatories 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.

Further, in certain circumstances, PEF may determine upon investigation and analysis that information responsive to certain interrogatories 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 an interrogatory, 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 information 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.

Finally, in responding to Sugarmill's interrogatories, PEF will identify the witness that is responsible for providing particular responses, but PEF otherwise objects to Sugarmill's "Instruction E," as being inconsistent with Rule 1.340, Florida Rules of Civil Procedure.

#### **OBJECTIONS TO SPECIFIC INTERROGATORIES**

In like-numbered paragraphs, PEF objects to the following interrogatories in Sugarmill's First Set of Interrogatories (No. 1-44):

##### **Interrogatories 5-8:**

**Objection:** PEF objects to Sugarmill's interrogatory numbers 5-8 because they call for information that is irrelevant to this proceeding and not likely to lead to the discovery of admissible evidence. PEF's actual and forecasted earnings in dollars and dollars per share has nothing to do with the events of this proceeding, especially for years 2001, 2002, 2003, and 2005 when the catastrophic hurricanes did not occur. 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.

Sugarmill's interrogatory numbers 5-8 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. The interrogatories at issue are, therefore, irrelevant and immaterial to this proceeding. Even if PEF provided the information requested in interrogatory numbers 5-8-- 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 answer would not provide Sugarmill 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.

**Interrogatory 12:**

**Objection:** PEF objects to Sugarmill's interrogatory number 12 because it would force PEF to assume facts not in evidence, and to respond to a hypothetical that is vague and ambiguous because it contains undefined terms such as the requirement to provide the "best source" and "terms" of borrowing and "current market conditions." PEF further objects to Sugarmill's interrogatory number 12 because it calls for information that is irrelevant to this proceeding and not likely to lead to the discovery of admissible evidence even if it could be answered, which is not the case. The hypothetical borrowing scenario proposed has no connection to reality or this proceeding. 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.

Sugarmill's interrogatory number 12 has 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. The interrogatory at issue is, therefore, irrelevant and immaterial to this proceeding. Even if PEF provided the information requested in interrogatory number 12-- 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 answer would not provide Sugarmill 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.

**Interrogatories 16 and 24:**

**Objection:** PEF objects to Sugarmill's interrogatory numbers 16 and 24 because both those interrogatories ask PEF to provide information regarding Florida Power & Light and not PEF. However, PEF assumes that the references to "FP&L" in interrogatory numbers 16 and 24 are typographical errors, and that Sugarmill intended to ask for the information therein as it relates to PEF and not Florida Power & Light.

**Interrogatories 35-37:**

**Objection:** PEF objects to Sugarmill's interrogatory numbers 35-37 because they call for information that is irrelevant to this proceeding and not likely to lead to the discovery of admissible evidence. PEF has already produced documents regarding its tree trimming policies and expenses in 2004 in discovery and the answer with respect to 2004 can be obtained by Sugarmill as easily as PEF. As for the last ten (10) years of expenses, that information has

nothing to do with the events of this proceeding. 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.

Sugarmill's interrogatory numbers 35-37 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. The interrogatories at issue are, therefore, irrelevant and immaterial to this proceeding. Even if PEF provided the information requested in interrogatory numbers 35-37-- 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 answer would not provide Sugarmill 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.

**Interrogatory 40:**

**Objection:** PEF objects to Sugarmill's interrogatory number 40 because it calls for information that is protected litigation work product and that is irrelevant to this proceeding and not likely to lead to the discovery of admissible evidence. Whether or not PEF has sought the assistance of former Commissioners or former Staff has nothing to do with the events of this proceeding. 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.

Sugarmill's interrogatory number 40 has 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. The interrogatory at issue is, therefore, irrelevant and immaterial to this proceeding. Even if PEF provided the information requested in interrogatory number 40-- 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 answer would not provide Sugarmill 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.

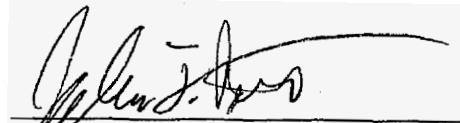
**Interrogatory 44:**

**Objection:** PEF objects to Sugarmill's interrogatory number 44 because it calls 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.

Sugarmill's interrogatory number 44 has 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. The interrogatory at issue is, therefore, irrelevant and immaterial to this proceeding. Even if PEF provided the information requested in interrogatory number 44-- 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 answer would not provide Sugarmill 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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**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true copy of the foregoing has been furnished to the following individuals as indicated in the service list on this 7th day of February, 2005.

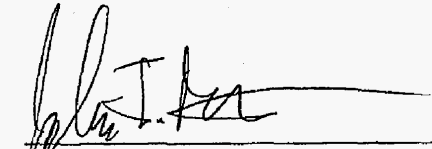
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