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Sent: Monday, May 23, 2005 4:10 PM
To: Filings@psc.state.fl.us
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Subject: Docket No. 050078 Documents for Filing

Attachments: PEF Objections Staff 2nd Req for Prod.pdf; PEF Objections OPC 2nd Interrogatories.pdf; PEF Objections OPC 2nf Request for Production.pdf; PEF Objections OPC 3rd Request for Production.pdf; PEF Objections OPC 3rf Interrogatories.pdf; PEF Objections OPC 4th Interrogatories.pdf; PEF Objections Staff 2nd Interrogatories.pdf



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Attached for filing

and e-service on behalf of Progress Energy Florida are the following documents:

- 0503-051. PEF'S Objections to Staff's Second Set of Interrogatories to Progress Energy Florida, Inc. Nos. 93-103;
- 0504-052. PEF'S Objections to Staff's Second Request for Production of Documents to Progress Energy Florida, Inc. (Nos. 25-27);
- 0505-053. PEF's Objections to the Office of Public Counsel's Second Set of Interrogatories to Progress Energy Florida, Inc. Nos. 58-111;
- 0506-054. PEF's Objections to OPC's Second Set of Requests for Production of Documents (Nos. 76-107);
- 0507-055. PEF's Objections to OPC's Third Set of Requests for Production of Documents (Nos. 108-124);
- 0508-056. PEF's Objections to the Office of Public Counsel's Third Set of Interrogatories to Progress Energy Florida, Inc. Nos. 112-170;
- 0509-057. PEF's Objections to the Office of Public Counsel's Fourth Set of Interrogatories to Progress Energy Florida, Inc. Nos. 171-206.

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 SEC 1
 OTH _____

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ORIGINAL

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for rate increase by
Progress Energy Florida, Inc.

Docket No. 050078-E1
Submitted for filing:
May 23, 2005

**PEF'S OBJECTIONS TO STAFF'S SECOND SET OF INTERROGATORIES TO
PROGRESS ENERGY FLORIDA, INC. NOS. 93-103**

Pursuant to Fla. Admin. Code R. 28-106.206, Rule 1.340 of the Florida Rules of Civil Procedure, and the Order Establishing Procedure in this matter, Progress Energy Florida, Inc. ("PEF") hereby serves its objections to the Florida Public Service Commission Staff's ("Staff") Second Set of Interrogatories to PEF, Nos. 93-103, and states as follows:

GENERAL OBJECTIONS

While PEF will endeavor to respond to Staff's discovery requests whenever possible, PEF respectfully must object to Staff's Second Set of Interrogatories, Nos. 93 through 103, to the extent that they are improper under the applicable rules and Order. To begin with, PEF respectfully objects to any direction, definition, or instruction in the introductory paragraph, the "Definitions" and the "Instructions" in Staff's Second Set of Interrogatories to PEF, Nos. 93-103, that is inconsistent with PEF's discovery obligations under applicable rules. If some question arises as to PEF's discovery obligations, PEF must comply with applicable rules and not with Staff's directions, definitions, or instructions that are inconsistent with those rules. PEF objects to Staff's direction that each answer shall be signed by the person making it because no such obligation exists under the rules. PEF, however, will identify for Staff the individual or individuals responsible for the substantive answer in its answers to Staff's Second Set of Interrogatories to PEF. PEF must further object to Staff's definition of the Company to the

extent that Staff is attempting to seek information or documents from PEF's in-house or outside attorneys that is protected by the attorney-client or work product privileges. Furthermore, PEF must object to the attempt to request by definition or instruction information that is not requested in a particular interrogatory because nothing in the applicable rules requires PEF to perform such tasks and the definition and instruction necessarily raise questions regarding the limits on the number of interrogatories set forth in the Order. PEF must also object to the attempt to add to the requirements under the rules by Staff's definition when PEF alternatively opts to produce documents in response to an interrogatory. PEF will comply with the rules if and when PEF elects to produce documents in accordance with the rule in lieu of providing a written answer to an interrogatory.

Additionally, PEF generally objects to Staff's Second Set of Interrogatories to the extent that they call for 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 that information responsive to certain interrogatories are confidential and proprietary and should be answered only under an appropriate confidentiality agreement and protective order, if at all. By agreeing to provide such information in response to such a 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 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.

PEF must further object to any interrogatory that seeks to encompass persons or entities other than PEF who are not parties to this proceeding and thus are not subject to discovery. No responses to the interrogatories will be made on behalf of persons or entities other than PEF.

PEF must generally object to Staff Second Set of Interrogatories to PEF to the extent Staff requests information from entities other than PEF who are not parties to the proceeding and, therefore, are beyond the scope of discovery in a proceeding involving only PEF. PEF will respond to the interrogatories and provide the information requested from PEF but PEF cannot and will not respond on behalf of any other entities.

PEF must also respectfully object to Staff's Second Set of Interrogatories to PEF to the extent that they require PEF or PEF's retained experts to develop information or create material for Staff, presumably at PEF's expense. The purpose of discovery, of course, is to obtain information that already exists, not to require the other side to create information or material for the requesting party. PEF, therefore, is not obligated to incur the expense of performing or having its experts perform work for Staff to create information or material that Staff seeks in these interrogatories. In the interest of assisting Staff only in its efforts to gather information for this proceeding, however, PEF will respond to the interrogatories to the extent the work necessary to arrive at the information or material Staff wants is already done in some form or another or can reasonably be done at a practicable cost to PEF. Otherwise, PEF must object to the request because it is improper discovery to serve interrogatories on PEF that require PEF to incur expense to do work or create information for another party.

By making these general objections at this time, PEF does not waive or relinquish its right to assert additional general and specific objections to Staff's discovery at the time PEF's response is due 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

Request 98: Subject to the Company’s general objections, and without waiving same, PEF must object to Staff’s interrogatory number 98 because the interrogatory calls for information for 2007 and beyond and, therefore, it is irrelevant, has no bearing on this proceeding, and is not likely to lead to the discovery of admissible evidence.

Request 99: Subject to the Company’s general objections, and without waiving same, PEF must object to Staff’s interrogatory number 99 because the interrogatory calls for information for 2007 and beyond and, therefore, it is irrelevant, has no bearing on this proceeding, and is not likely to lead to the discovery of admissible evidence.

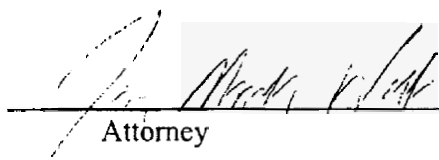
Request 103: Subject to the Company’s general objections, and without waiving same, PEF must object to Staff’s interrogatory number 103 because the interrogatory calls for information for 2007 and beyond and, therefore, it is irrelevant, has no bearing on this proceeding, and is not likely to lead to the discovery of admissible evidence.

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished electronically and via U.S. Mail this 23rd day of May, 2005 to all counsel of record as indicated below.



Attorney

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