

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

---

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

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

---

**PEF'S OBJECTIONS TO STAFF'S SECOND REQUEST FOR PRODUCTION OF  
DOCUMENTS TO PROGRESS ENERGY FLORIDA INC. (NOS. 25-27)**

Pursuant to Fla. Admin. Code R. 28-106.206, Rule 1.350 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 Request for Production of Documents to Progress Energy Florida, Inc. (Nos. 25-27) and states as follows:

**GENERAL OBJECTIONS**

PEF generally objects to the time and place of production requirement in Staff's Second Request for Production of Documents and 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 will produce the documents in some other manner or at some other place that is mutually convenient to both PEF and Staff for purposes of inspection, copying, or handling of the responsive documents.

While PEF will endeavor to respond to Staff's discovery requests whenever possible, PEF respectfully objects to any discovery requests that are improper or inconsistent with PEF's discovery obligations under applicable rules and the Order. If some question arises as to PEF's discovery obligations, PEF will comply with applicable rules and Order. For example, PEF objects to any discovery request that attempts to seek information or documents from the files of

PEF's outside and in-house attorneys that is protected by the attorney-client privilege or work product doctrine and is otherwise not within the scope of discovery under the applicable rules and law. Furthermore, PEF objects to any request 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 requests will be made on behalf of persons or entities other than PEF. PEF also objects to any request that calls for PEF to create documents that it otherwise does not have because there is no such requirement under the applicable rules and law.

Additionally, PEF generally objects to Staff's requests to the extent that they call for 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. PEF will provide a privilege log in accordance with the applicable law or as may be agreed to by the parties 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 documents responsive 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 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 generally objects to Staff's Second Request for Production to the extent that it calls for the production of "all" documents of any nature, including, every copy of every document responsive to the requests. PEF will make a good faith, reasonably diligent attempt to identify and obtain responsive documents when no objection has been asserted to the production of such documents, but it is not practicable or even possible to identify, obtain, and produce "all" documents. In addition, PEF reserves the right to supplement any of its responses to Staff's requests for production if PEF cannot produce documents immediately due to their magnitude and the work required to aggregate them, or if PEF later discovers additional responsive documents in the course of this proceeding.

PEF also objects to any request that calls for projected data or information beyond the year 2006 because such data or information is irrelevant to this case and has no bearing on this proceeding, nor is such data or information likely to lead to the discovery of admissible evidence. Furthermore, if a request does not specify a timeframe for which data or information is sought, PEF will interpret such request as calling only for data and information relevant to the years 2004-2006.

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 25:** Subject to PEF’s general objections, and without waiving same, PEF must object to Staff’s request number 25 because that request calls for PEF to obtain documents that are relevant only to the years 2007 and beyond and, therefore, the request is irrelevant, has no bearing on this proceeding, and is not likely to lead to the discovery of admissible evidence.

**Request 26:** Subject to PEF’s general objections, and without waiving same, PEF must object to Staff’s request number 26 because that request calls for PEF to obtain documents that are relevant only to the years 2007 and beyond and, therefore, the request is irrelevant, has no bearing on this proceeding, and is not likely to lead to the discovery of admissible evidence.

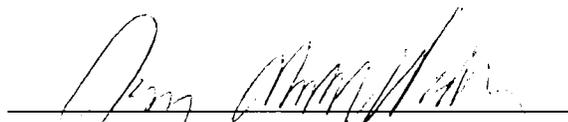
**Request 27:** Subject to PEF’s general objections, and without waiving same, PEF must object to Staff’s request number 27 because that request calls for PEF to obtain documents that are relevant only to the years 2007 and beyond and, therefore, the request is irrelevant, has no bearing on this proceeding, and is not likely to lead to the discovery of admissible evidence.

R. ALEXANDER GLENN  
Deputy General Counsel – Florida  
PROGRESS ENERGY SERVICE  
COMPANY, LLC  
100 Central Avenue, Ste. 1D  
St. Petersburg, FL 33701  
Telephone: (727) 820-5587  
Facsimile: (727) 820-5519

  
\_\_\_\_\_  
GARY L. SASSO  
Florida Bar No. 622575  
JAMES MICHAEL WALLS  
Florida Bar No. 0706272  
JOHN T. BURNETT  
Florida Bar No. 173304  
DIANNE M. TRIPLETT  
Florida Bar No. 0872431  
CARLTON FIELDS, P.A.  
Post Office Box 3239  
Tampa, FL 33601-3239  
Telephone: (813) 223-7000  
Facsimile: (813) 229-4133

**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 23<sup>rd</sup> day of May, 2005 to all counsel of record as indicated below.

  
\_\_\_\_\_  
Attorney

<p>Jennifer Brubaker Felicia Banks Jennifer Rodan <b>Office of the General Counsel</b> Florida Public Service Commission 2540 Shumard Oak Boulevard Tallahassee, FL 32399-0850</p> <hr/>	<p>John W. McWhirter, Jr. McWhirter, Reeves, Davidson, Kaufman &amp; Arnold, P.A. 400 North Tampa Street, Ste. 2450 Tampa, FL 33601-3350 -and- Timothy J. Perry McWhirter, Reeves, Davidson, Kaufman &amp; Arnold, P.A. 117 South Gadsden Street Tallahassee, FL 32301 <b>Counsel for Florida Industrial Power Users Group</b></p> <hr/>
<p>Harold McLean <b>Office of the Public Counsel</b> c/o The Florida Legislature 111 W. Madison Street, Room 812 Tallahassee, FL 32399-1400</p> <hr/>	<p>C. Everett Boyd, Jr. Sutherland Asbill &amp; Brennan LLP 2282 Killearn Center Blvd. Tallahassee, FL 32309</p>
<p>Mike B. Twomey P.O. Box 5256 Tallahassee, FL 32314-5256 <b>Counsel for AARP</b></p> <hr/>	<p>James M. Bushee Daniel E. Frank Andrew K. Soto Sutherland Asbill &amp; Brennan LLP 1275 Pennsylvania Avenue, N.W. Washington, DC 20004-2415</p>
<p>Robert Scheffel Wright, John T. LaVia, III, Landers &amp; Parsons, P.A. 310 West College Avenue (ZIP 32301) Post Office Box 271 Tallahassee, Florida 32302 <b>Counsel for Florida Retail Federation</b></p>	<p>Richard A. Zambo Richard A. Zambo, P.A. 2336 S.E. Ocean Boulevard, #309 Stuart, Florida 34996  -and-</p>

	<p>Karin S. Torain PCS Administration, (USA), Inc. Suite 400 Skokie blvd. Northbrook, IL 60062</p> <p><b>Counsel for White Springs</b></p>
--	--