ORIGINAL

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 THE OFFICE OF PUBLIC COUNSEL'S THIRD SET OF INTERROGATORIES TO PROGRESS ENERGY FLORIDA, INC. NOS. 112-170

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 Office of Public Counsel's ("OPC") Third Set of Interrogatories to PEF, Nos. 112-170, and states as follows:

GENERAL OBJECTIONS

PEF respectfully must object to OPC's Third Set of Interrogatories, Nos. 112 through 170, to the extent that they are improper under the applicable rules and Order. With respect to the "Definitions" and "Instructions," PEF objects to any definitions or instructions that are inconsistent with PEF's discovery obligations under applicable rules. If some question arises as to PEF's discovery obligations, PEF will comply with applicable rules and not with any of OPC's definitions or instructions that are inconsistent with those rules. For example, PEF objects to OPC's request that PEF provide information in "a searchable electronic format" because there is no such requirement in the applicable rules. PEF also objects to definition "(v)" given that there is no requirement in the applicable rules for PEF to perform any of the tasks set

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forth in the definition of the word "identify" therein. Furthermore, PEF objects to any interrogatory that calls for PEF to create data or information that it otherwise does not have because there is no such requirement under the applicable rules and law.

PEF objects to OPC's definition "(i)" given that it includes "affiliates" in the definition of "PEF," and PEF objects to any definition or interrogatory that seeks to encompass persons or entities other than PEF who are not parties to this action 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 also object to OPC's Third Set of Interrogatories to PEF to the extent that they require PEF or PEF's retained experts to develop information or create material for OPC, 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 OPC to create information or material that OPC seeks in these interrogatories. 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.

Additionally, PEF generally objects to OPC's interrogatories to the extent that they call for data 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.

PEF also objects to any interrogatory 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 an interrogatory does not specifically specify a timeframe for which data or information is sought, PEF will interpret such interrogatory as calling only for data and information relevant to the years 2004-2006.

Finally, PEF objects to any attempt by OPC to evade the numerical limitations set on interrogatories in the Order Establishing Procedure by asking multiple independent questions within single individual questions and subparts.

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 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 113: Subject to the Company's general objections, and without waiving same, PEF must object to OPC's interrogatory number 113 because the interrogatory exceeds the proper scope of the Commission's inquiry about utility affiliates and the proper scope of discovery by calling for information from and about "each subsidiary" of Progress Energy, Inc. and Progress Energy, Inc. Progress Energy, Inc. and the other subsidiaries are not parties to this proceeding and the scope of discovery is limited to information within the possession, custody, or control of PEF as the party to this proceeding. PEF further objects to interrogatory number 113 because the requested information for "each subsidiary" of Progress Energy other than PEF is irrelevant and is not calculated to lead to the discovery of admissible evidence in this proceeding. PEF, accordingly, will respond to interrogatories only on behalf of PEF and not on behalf of persons or entities that are not parties to this proceeding.

Request 114: Subject to the Company's general objections, and without waiving same, PEF must object to OPC's interrogatory number 114 because the interrogatory exceeds the proper scope of the Commission's inquiry about utility affiliates and the proper scope of discovery by calling for information from and about "each subsidiary" of Progress Energy, Inc. and Progress Energy, Inc. Progress Energy, Inc. and the other subsidiaries are not parties to this proceeding and the scope of discovery is limited to information within the possession, custody, or control of PEF as the party to this proceeding. PEF further objects to interrogatory number 114 because the requested information for "each subsidiary" of Progress Energy other than PEF is irrelevant and is not calculated to lead to the discovery of admissible evidence in this proceeding. PEF, accordingly, will respond to interrogatories only on behalf of PEF and not on behalf of persons or entities that are not parties to this proceeding.

Request 115: Subject to the Company's general objections, and without waiving same, PEF must object to OPC's interrogatory number 115 because the interrogatory exceeds the proper scope of the Commission's inquiry about utility affiliates and the proper scope of discovery by calling for information from and about Progress Energy, Inc. Progress Energy, Inc. is not a party to this proceeding and the scope of discovery is limited to information within the possession, custody, or control of PEF as the party to this proceeding. PEF further objects to interrogatory number 115 because the requested past information is irrelevant and is not calculated to lead to the discovery of admissible evidence in this proceeding. PEF, accordingly, will respond to interrogatories only on behalf of PEF and not on behalf of persons or entities that are not parties to this proceeding.

Request 120: Subject to the Company's general objections, and without waiving same, PEF must object to OPC's interrogatory number 120 because the interrogatory exceeds the proper scope of the Commission's inquiry about utility affiliates and the proper scope of discovery by calling for information from and about Progress Energy, Inc. Progress Energy, Inc. is not a party to this proceeding and the scope of discovery is limited to information within the possession, custody, or control of PEF as the party to this proceeding. PEF, accordingly, will respond to interrogatories only on behalf of PEF and not on behalf of persons or entities that are not parties to this proceeding. PEF further objects to interrogatory number 120 because the requested information is irrelevant and is not calculated to lead to the discovery of admissible evidence in this proceeding. PEF also objects to OPC interrogatory number 120 because the interrogatory is vague, ambiguous, and confusing because PEF does not know what OPC means by "the capital structure to implement for the consolidated Progress Energy," and PEF, therefore, cannot respond.

Request 122: Subject to the Company's general objections, and without waiving same, PEF must object to OPC's interrogatory number 122 because the interrogatory exceeds the proper scope of the Commission's inquiry about utility affiliates and the proper scope of discovery by calling for information from and about Progress Energy, Inc. Progress Energy, Inc. is not a party to this proceeding and the scope of discovery is limited to information within the possession, custody, or control of PEF as the party to this proceeding. PEF, accordingly, will respond to interrogatories only on behalf of PEF and not on behalf of persons or entities that are not parties to this proceeding. PEF further objects to interrogatory number 122 because the requested information is irrelevant and is not calculated to lead to the discovery of admissible evidence in this proceeding. PEF also objects to OPC interrogatory number 122 because the interrogatory is vague, ambiguous, and confusing because PEF does not know what OPC means by the phrase "decided upon a capital structure to implement," and PEF, therefore, cannot respond.

Request 123: Subject to the Company's general objections, and without waiving same, PEF must object to OPC's interrogatory number 123 because the interrogatory exceeds the proper scope of the Commission's inquiry about utility affiliates and the proper scope of discovery by calling for information from and about Progress Energy, Inc. Progress Energy, Inc. is not a party to this proceeding and the scope of discovery is limited to information within the possession, custody, or control of PEF as the party to this proceeding. PEF further objects to interrogatory number 123 because the requested information is irrelevant and is not calculated to lead to the discovery of admissible evidence in this proceeding. PEF, accordingly, will respond to interrogatories only on behalf of PEF and not on behalf of persons or entities that are not parties to this proceeding.

Request 127: Subject to the Company's general objections, and without waiving same, PEF must object to OPC's interrogatory number 127 because the interrogatory improperly require PEF's expert to prepare a study or do work for OPC that has not been done for PEF, presumably at PEF's cost, and, further, the information requested is irrelevant and not reasonably calculated to lead to admissible evidence in this proceeding.

Request 137: Subject to the Company's general objections, and without waiving same, PEF must object to OPC's interrogatory number 137 because the interrogatory exceeds the proper scope of the Commission's inquiry about utility affiliates and the proper scope of discovery by calling for information from and about Progress Energy, Inc. Progress Energy, Inc. is not a party to this proceeding and the scope of discovery is limited to information within the possession, custody, or control of PEF as the party to this proceeding. PEF, accordingly, will respond to interrogatories only on behalf of PEF and not on behalf of persons or entities that are not parties to this proceeding. PEF further objects to OPC interrogatory number 137 because it improperly require PEF or PEF's expert to prepare a study or do work for OPC that has not been prepared by or for PEF, presumably at PEF's cost, and, further, the information requested is irrelevant and not reasonably calculated to lead to admissible evidence in this proceeding.

Request 138: Subject to the Company's general objections, and without waiving same, PEF must object to OPC's interrogatory number 138 because the interrogatory improperly requires PEF's expert to prepare a study or do work for OPC that has not been done for PEF, presumably at PEF's cost, and, further, the information requested is irrelevant and not reasonably calculated to lead to admissible evidence in this proceeding.

Request 139: Subject to the Company's general objections, and without waiving same, PEF must object to OPC's interrogatory number 139 because the interrogatory is vague,

ambiguous, and confusing because the requested comparison cannot be done as stated in the interrogatory.

Request 141: Subject to the Company's general objections, and without waiving same, PEF must object to OPC's interrogatory number 141 because the interrogatory exceeds the proper scope of the Commission's inquiry about utility affiliates and the proper scope of discovery by calling for information from and about Progress Energy, Inc. Progress Energy, Inc. is not a party to this proceeding and the scope of discovery is limited to information within the possession, custody, or control of PEF as the party to this proceeding. PEF, accordingly, will respond to interrogatories only on behalf of PEF and not on behalf of persons or entities that are not parties to this proceeding. PEF further objects to OPC interrogatory number 141 because it improperly require PEF or PEF's expert to prepare a study or do work for OPC that has not been prepared by or for PEF, presumably at PEF's cost, and, further, the information requested is irrelevant and not reasonably calculated to lead to admissible evidence in this proceeding.

Request 147: Subject to the Company's general objections, and without waiving same, PEF must object to OPC's interrogatory number 147, subparts c, d, and e, because the interrogatory subparts improperly require PEF's expert to prepare a study or do work for OPC that has not been done for PEF, presumably at PEF's cost, and, further, the information requested is irrelevant and not reasonably calculated to lead to admissible evidence in this proceeding.

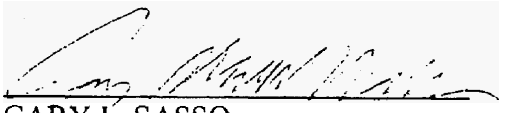
Request 155: Subject to the Company's general objections, and without waiving same, PEF must object to OPC's interrogatory number 155 because the interrogatory exceeds the proper scope of the Commission's inquiry about utility affiliates and the proper scope of discovery by calling for information from and about Progress Energy, Inc. and the prior, "merged" companies. Progress Energy, Inc. and the prior, "merged" companies are not parties to

this proceeding and the scope of discovery is limited to information within the possession, custody, or control of PEF as the party to this proceeding. PEF, accordingly, will respond to interrogatories only on behalf of PEF and not on behalf of persons or entities that are not parties to this proceeding. PEF further objects to OPC interrogatory number 155 because it improperly requires PEF or PEF's expert to prepare a study or do work for OPC that is time consuming and overly burdensome to PEF if it can be done at all, that has not been prepared by or for PEF, presumably at PEF's cost, and, further, the information requested is irrelevant and not reasonably calculated to lead to admissible evidence in this proceeding.

Request 166: Subject to the Company's general objections, and without waiving same, PEF must object to OPC's interrogatory number 166, subpart A, because the interrogatory subpart improperly requires PEF to do work for OPC that has not been prepared or done by PEF, presumably at PEF's cost.

Request 167: Subject to the Company's general objections, and without waiving same, PEF must object to OPC's interrogatory number 167, subpart d, because the interrogatory subpart exceeds the proper scope of the Commission's inquiry about utility affiliates and the proper scope of discovery by calling for information from and about Progress Energy, Inc. Progress Energy, Inc. is not a party to this proceeding and the scope of discovery is limited to information within the possession, custody, or control of PEF as the party to this proceeding. PEF further objects to interrogatory number 167 because the requested information is irrelevant and is not calculated to lead to the discovery of admissible evidence in this proceeding. PEF, accordingly, will respond to interrogatories only on behalf of PEF and not on behalf of persons or entities that are not parties to this proceeding.

Respectfully submitted,



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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 25th day of May, 2005 to all counsel of record as indicated below.

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