

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:  
June 17, 2005

**PEF'S OBJECTIONS TO STAFF'S FIFTH SET OF  
INTERROGATORIES (NOS. 143-157)**

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 Staff of the Florida Public Service Commission ("Staff") Fifth Set of Interrogatories to PEF, Nos. 143-157, and states as follows:

**GENERAL OBJECTIONS**

With respect to the "Definitions" in Staff's Fifth Set of Interrogatories, Nos. 143-157, 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 Staff's definitions or instructions that are inconsistent with those rules.

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 Staff's Fifth 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.

Additionally, PEF generally objects to Staff'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 or prior to 2004 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

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 Staff 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 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 145:** PEF must object to this interrogatory to the extent that it requires PEF to create documents that otherwise do not exist or to prepare a study or do work for Staff that has not been done for PEF, presumably at PEF's cost. PEF also objects to this interrogatory to the extent that the interrogatory calls for information for the years 2007 and 2008. Any such request is irrelevant, has no bearing on this proceeding, and is not likely to lead to the discovery of admissible evidence.

**Request 146:** PEF must object to this interrogatory to the extent that the interrogatory calls for information for the years prior to the merger in 2000. Information for the years before 2000 is irrelevant to this case and has no bearing on this proceeding, nor is that information likely to lead to the discovery of admissible evidence. This information is

pre-merger and is necessarily irrelevant to this proceeding, as it relates to a different company than PEF.


**Request 154:** PEF must object to this interrogatory to the extent that the interrogatory calls for information for the years prior to the merger in 2000. Information for the years before 2000 is irrelevant to this case and has no bearing on this proceeding, nor is that information likely to lead to the discovery of admissible evidence. This information is pre-merger and is necessarily irrelevant to this proceeding, as it relates to a different company than PEF.

**Request 155:** PEF must object to this interrogatory to the extent that the interrogatory calls for information for the years prior to the merger in 2000. Information for the years before 2000 is irrelevant to this case and has no bearing on this proceeding, nor is that information likely to lead to the discovery of admissible evidence. This information is pre-merger and is necessarily irrelevant to this proceeding, as it relates to a different company than PEF.

**Request 157:** PEF must object to section (a) of this interrogatory to the extent it requires PEF to produce “all applicable PUHCA and SEC rules.” PEF will make a good faith, reasonably diligent attempt to identify and obtain all such rules, but it may not be practicable or even possible to identify, obtain, and produce “all” the requested rules.

Respectfully submitted,

R. ALEXANDER GLENN  
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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 17<sup>th</sup> day of June, 2005 to all counsel of record as indicated below.

  
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