

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

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

Docket No. 050078-EI
Submitted for filing:
June 27, 2005

**PEF'S OBJECTIONS TO WHITE SPRINGS AGRICULTURAL CHEMICALS,
INC. D/B/A PCS PHOSPHATE – WHITE SPRINGS' SECOND SET OF
INTERROGATORIES (NOS. 2-48)**

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 White Springs Agricultural Chemicals, Inc. d/b/a PCS Phosphate – White Springs' ("White Springs") Second Set of Interrogatories (Nos. 2-48) and states as follows:

GENERAL OBJECTIONS

With respect to the "Definitions and Instructions" in White Springs' Second Set of Interrogatories (Nos. 2-48), PEF objects to any definitions or instructions that are inconsistent or in conflict with PEF's discovery obligations under applicable rules. PEF also objects to any definitions or instructions that attempt to impose discovery obligations on PEF beyond those called for under the applicable rules. If some question arises as to PEF's discovery obligations, PEF will comply with applicable rules and not with any of White Springs' definitions or instructions that are inconsistent with those rules.

Additionally, PEF objects to White Springs' definition "16" given that it includes "affiliates" in the definition of "Progress," 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 also objects to White Springs' Instruction "2" given that PEF has no obligation under applicable rules to seek out or obtain information or documents from former employees.

PEF must also object to White Springs' 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 White Springs, 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 White Springs to create information or material that White Springs seeks in these interrogatories.

Additionally, PEF generally objects to White Springs' 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.

PEF objects to any attempt by White Springs to evade the numerical limitations set on interrogatories in the Order Establishing Procedure by asking multiple independent questions within single individual questions and subparts. PEF also objects to White Springs' instruction "12," and PEF will provide discovery responses in the time frame set forth in the Order Establishing Procedure in this matter. Finally, PEF objects to White Springs' instruction "11," as there is no such obligation under the applicable rules or the Order Establishing Procedure. However, PEF will identify what witness provides particular answers in response to White Springs' interrogatories.

By making these general objections at this time, PEF does not waive or relinquish its right to assert additional general and specific objections to White Springs' 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

Interrogatory 12: PEF objects to subpart “c” of White Springs’ interrogatory 12 as vague and ambiguous because the interrogatory implies that the Company has made a conclusion regarding the Company’s labor and benefit expense, but White Springs does not provide any cite as to anything PEF has filed in this case in which PEF has made such a conclusion.

Interrogatory 13: PEF objects to White Springs’ interrogatory number 13 because it calls for data from the years prior to 2004. The vintage data requested is irrelevant to this case and has no bearing on this proceeding, nor is that data likely to lead to the discovery of admissible evidence.

Interrogatory 17: PEF must object to this interrogatory to the extent it improperly requires PEF to prepare a study or do work for White Springs that has not been done for PEF, presumably at PEF’s cost. PEF is not required by the rules or Order to create information in order to respond to a discovery request. Furthermore, PEF must object to this interrogatory to the extent the request is for information from the past ten years. The interrogatory is overbroad as to time, and is therefore irrelevant, and not likely to lead to the discovery of admissible evidence in this proceeding. Finally, PEF must object to this interrogatory to the extent it improperly requests PEF to “provide a summary of the issues considered by the Commission, or raised by Staff or interested intervenors,” to the extent that it asks PEF to provide a legal analysis or evaluation of a Commission order.

Interrogatory 18: PEF objects to White Springs’ interrogatory number 18 because it calls for data from the years prior to 2004. The vintage data requested is

irrelevant to this case and has no bearing on this proceeding, nor is that data likely to lead to the discovery of admissible evidence. PEF further objects to this interrogatory in that it may improperly require PEF to prepare a study or do work for White Springs that has not been done for PEF, presumably at PEF's cost. PEF is not required by the rules or Order to create information in order to respond to a discovery request.

Interrogatory 30: PEF must object to this interrogatory to the extent it improperly requires PEF or its expert to prepare a study or do work for White Springs that has not been done for PEF, presumably at PEF's cost. PEF is not required by the rules or Order to create information in order to respond to a discovery request.

Interrogatory 43: PEF objects to this interrogatory to the extent that it calls for PEF to produce documents as if it were a request for production of documents rather than an interrogatory. In its discretion, PEF may elect to produce documents in response to an interrogatory pursuant to Rule 1.340(c), but PEF has no obligation to do so.

Respectfully submitted,

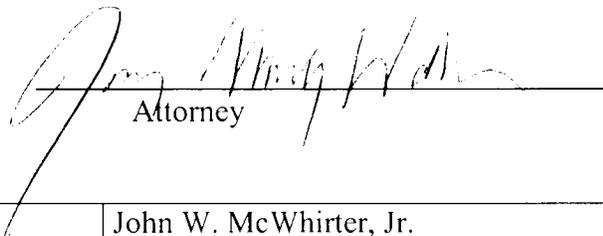
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished electronically and via U.S. Mail this 27th day of June, 2005 to all counsel of record as indicated below.


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