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Subject: Docket No. 050078 Documents for Filing

Attachments: PEF Objections to Staff 9th Interrogatories.pdf; PEF Objections Staff 7th Req for Prod.pdf



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Attached for filing and e-service on behalf of Progress Energy Florida are:

1. Progress Energy's Objections to Staff's Ninth Set of Interrogatories (Nos. 21-225; and
2. Progress Energy's Objections to Staff's Seventh Request for Production of Documents (No. 56).

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 DOCUMENT NUMBER-DATE
 06823 JUL 18 05

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

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

Docket No. 050078-EI
Submitted for filing:
July 18, 2005

**PEF'S OBJECTIONS TO STAFF'S NINTH SET OF
INTERROGATORIES (NOS. 210-225)**

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") Ninth Set of Interrogatories to PEF, Nos. 210-225, and states as follows:

GENERAL OBJECTIONS

With respect to the "Definitions" in Staff's Ninth Set of Interrogatories, Nos. 210-225, 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 Ninth 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 exceed 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

Interrogatory 212: PEF must object to subpart (i) of this interrogatory to the extent it improperly requires PEF to do research for Staff 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 217: PEF must object to this interrogatory because it improperly requires PEF to prepare a study or do work for Staff that has not been done for PEF, presumably at PEF's cost. PEF has not performed the analysis required to respond to this interrogatory. Further, PEF is not required by the rules or Order to create information in order to respond to a discovery request.

Interrogatory 221: PEF must object to this interrogatory because it improperly requires PEF to prepare a study or do work for Staff that has not been done for PEF,

presumably at PEF's cost. PEF has not performed the analysis required to respond to this interrogatory. Further, PEF is not required by the rules or Order to create information in order to respond to a discovery request.


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 15th day of July, 2005 to all counsel of record as indicated below.



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