

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 25, 2005

**PEF'S OBJECTIONS TO STAFF'S TENTH SET OF  
INTERROGATORIES (NOS. 226-273)**

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") Tenth Set of Interrogatories to PEF, Nos. 226-273, and states as follows:

**GENERAL OBJECTIONS**

With respect to the "Definitions" in Staff's Tenth Set of Interrogatories, Nos. 226-273, 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 Tenth 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 242:** PEF must object to this interrogatory to the extent it improperly requires PEF or its experts to prepare a study or do work for Staff that has not been done for PEF, presumably at PEF's cost. Further, PEF is not required by the rules or Order to create information in order to respond to a discovery request.

**Interrogatory 243:** PEF must object to this interrogatory to the extent it improperly requires PEF or its experts to prepare a study or do work for Staff that has not been done for PEF, presumably at PEF's cost. Further, PEF is not required by the rules or Order to create information in order to respond to a discovery request.

**Interrogatory 244:** PEF must object to this interrogatory to the extent 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 is not required by the rules or Order to create information in order to respond to a discovery request.

**Interrogatory 246:** PEF must object to this interrogatory to the extent it improperly requires PEF or its experts to prepare a study or do work for Staff that has not been done for PEF, presumably at PEF's cost. Further, PEF is not required by the rules or Order to create information in order to respond to a discovery request.

**Interrogatory 247:** PEF must object to this interrogatory to the extent it improperly requires PEF or its experts to prepare a study or do work for Staff that has not been done for PEF, presumably at PEF's cost. Further, PEF is not required by the rules or Order to create information in order to respond to a discovery request.

**Interrogatory 248:** PEF must object to this interrogatory to the extent 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 is not required by the rules or Order to create information in order to respond to a discovery request.

**Interrogatory 250:** PEF must object to this interrogatory to the extent 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 is not required by the rules or Order to create information in order to respond to a discovery request.

**Interrogatory 251:** PEF must object to this interrogatory to the extent it improperly requires PEF or its experts to prepare a study or do work for Staff that has not been done for PEF, presumably at PEF's cost. Further, PEF is not required by the rules or Order to create information in order to respond to a discovery request.

**Interrogatory 252:** PEF must object to this interrogatory to the extent it improperly requires PEF or its experts to prepare a study or do work for Staff that has not been done for PEF, presumably at PEF's cost. Further, PEF is not required by the rules or Order to create information in order to respond to a discovery request.

**Interrogatory 266:** PEF must object to this interrogatory to the extent it improperly requires PEF or its experts to prepare a study or do work for Staff that has not been done for PEF, presumably at PEF's cost. Further, PEF is not required by the rules or Order to create information in order to respond to a discovery request.

**Interrogatory 267:** PEF must object to this interrogatory to the extent it improperly requires PEF or its experts to prepare a study or do work for Staff that has not been done for PEF, presumably at PEF's cost. Further, PEF is not required by the rules or Order to create information in order to respond to a discovery request.

**Interrogatory 268:** PEF must object to this interrogatory because it is unclear what the term "adjusted" means, as it applies to the equity ratio as a percentage of investor capital. If PEF has responsive information, PEF will provide the actual equity ratio as a percentage of investor capital. Further, PEF must object to this interrogatory to the extent it improperly requires PEF or its experts to prepare a study or do work 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 269:** PEF must object to this interrogatory because it is unclear what the term "adjusted" means, as it applies to the equity ratio as a percentage of investor capital. If PEF has responsive information, PEF will provide the actual equity ratio as a percentage of investor capital. Further, PEF must object to this interrogatory to

the extent it improperly requires PEF or its experts to prepare a study or do work 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.

Respectfully submitted,

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 25<sup>th</sup> day of July, 2005 to all counsel of record as indicated below.

  
\_\_\_\_\_  
Attorney

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

<p>Alan R. Jenkins McKenna Long &amp; Aldridge LLP One Peachtree Center 303 Peachtree Street, Suite 5300 Atlanta, Georgia 30308</p> <p><b>Counsel for the Commercial Group</b></p>	<p>-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>
--	---