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Sent: Monday, June 05, 2006 4:18 PM
To: Filings@psc.state.fl.us
Subject: Electronic Filing for PEF

Attachments: DOC035.PDF



DOC035.PDF (66
KB)

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ORIGINAL

BEFORE THE PUBLIC SERVICE COMMISSION

In re: Environmental Cost) Docket No. 060007-EI
Recovery Clause) May 25, 2006
_____)

**PEF's OBJECTIONS TO OPC's
FIRST SET OF INTERROGATORIES (Nos. 1-13)
AND FIRST REQUEST TO PRODUCE DOCUMENTS**

Pursuant to Fla. Admin. Code R. 28-106.206 and Rules 1.340 and 1.350 of the Florida Rules of Civil Procedure, Progress Energy Florida, Inc. ("PEF") hereby serves its objections to the Office of Public Counsel's ("OPC") First Set of Interrogatories (Nos. 1-13) to PEF and to OPC's First Request to Produce Documents to Progress Energy Florida, Inc. and states as follows:

GENERAL OBJECTIONS

With respect to the "Definitions" and "Instructions" in OPC's First Set of Interrogatories and First Request to Produce Documents, 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. Furthermore, PEF objects to any interrogatory or document request 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 definitions "(i)" in the Interrogatories and in "2" and "3" in the Request to Produce given that includes "affiliates" in the definitions of "PEF" and its predecessor "Florida Power Corporation". PEF objects to any definition, interrogatory, or

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document production request that seeks to encompass persons or entities who are not parties to this action or that are not subject to discovery under applicable rules.

Additionally, PEF generally objects to OPC's interrogatories and document production requests to the extent that they call for data or information protected by the attorney-client privilege, the attorney work product doctrine, the accountant-client privilege, the trade secret privilege, or any other applicable privilege or protection afforded by law.

PEF objects to any attempt by OPC to evade any numerical limitations set on interrogatories by asking multiple independent questions within single individual questions and subparts.

PEF also objects to any attempt by OPC to force disclosure of confidential information. PEF will produce any relevant confidential information pursuant to an appropriate confidentiality agreement between PEF, OPC and other parties to this proceeding who are entitled to copies of these responses and documents.

PEF generally objects to the time and place of production requirement in OPC's First Request to Produce Documents and will make all responsive documents available for inspection and copying at the offices of Progress Energy Florida, Inc., 106 E, College Avenue, Suite 500, Tallahassee, Florida, 32301 at a mutually convenient time, or will produce the documents in some other manner or at some other place that is mutually convenient to both PEF and OPC for purposes of inspection, copying (at OPC's expense), or handling of the responsive documents.

PEF generally objects to OPC's First Request to Produce Documents to the extent that it calls for the production of "all" documents of any nature, including, every copy of every document responsive to the requests. PEF will make a good faith, reasonably diligent attempt to identify and obtain responsive documents when no objection has been asserted to the production

of such documents, but it is not practicable or even possible to identify, obtain, and produce “all” documents. In addition, PEF reserves the right to supplement any of its responses to OPC’s requests for production if PEF cannot produce documents immediately due to their magnitude and the work required to aggregate them, or if PEF later discovers additional responsive documents in the course of this proceeding.

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.

SPECIFIC OBJECTIONS TO INTERROGATORIES AND REQUESTS FOR DOCUMENTS

Interrogatory 1

PEF objects to this interrogatory to the extent it requires PEF to provide a legal opinion as to possible future environmental regulations. PEF further objects to this interrogatory to the extent it requires PEF to disclose any privileged discussions, including attorney-client communications and opinions.

Interrogatory 5

PEF objects to this interrogatory as overly broad and burdensome in its request for “construction specifications, operating parameters and characteristics, and design criteria necessary to fully describe the boilers” at Crystal River Units 1, 2, 3 and 4. (Presumably the intent was to request such information for Units “4” and “5”, and not Units “3” and “4”.) PEF has previously provided OPC with design information for these coal-fired boilers in response to interrogatories related to the test burn of Powder River Basin coal at these units. Further, PEF will produce at the site where they are kept in the ordinary course of business voluminous

documents and reports related to this design information. OPC may then review those documents at those locations and identify those portions of which they require copies.

Interrogatory 10

PEF objects to this interrogatory to the extent it requires disclosure of any privileged and confidential communications, including attorney-client communications. PEF further objects to this interrogatory as it is vague as to the “results of the analysis, together with a comparison of this approach with other alternatives.” The term “other alternatives” is not defined or described sufficiently for PEF to respond to this interrogatory. PEF will otherwise respond to the substance of this request.

Interrogatory 11

PEF objects to this interrogatory to the extent it requires disclosure of any privileged and confidential communications, including attorney-client communications. PEF further objects to this interrogatory as it is vague as to the “results of the analysis, together with a comparison of this approach with other alternatives.” The term “other alternatives” is not defined or described sufficiently for PEF to respond to this interrogatory. PEF will otherwise respond to the substance of this request.

Interrogatory 12

PEF objects to this interrogatory to the extent it requires disclosure of any privileged and confidential communications, including attorney-client communications. PEF further objects to this interrogatory as it is vague as to the “results of the analysis, together with a comparison of this approach with other alternatives.” The term “other alternatives” is not defined or described sufficiently for PEF to respond to this interrogatory. PEF will otherwise respond to the substance of this request.

Interrogatory 13

PEF objects to this interrogatory to the extent it is repetitive of the prior 12 interrogatories that relate to many of the same issues. PEF will respond to the non-repetitive portions of this interrogatory.

SPECIFIC OBJECTIONS TO DOCUMENT PRODUCTIONS

PODs 3, 4, 5, 6 and 7

PEF objects to these document production requests to the extent they seek or would require the disclosure of confidential business information. Any such confidential documents will be provided pursuant to an appropriate confidentiality agreement.

POD 11

PEF objects to POD 11 as overly broad and burdensome. The requested "existing boiler fuel specifications" can be found in a large volume of documents related to the design of Crystal River Units 1, 2, 4 and 5. Relevant but voluminous documents will be produced at the location at which they are kept.

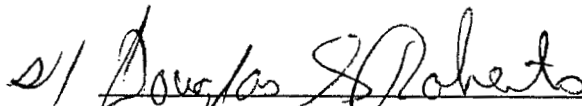
POD 12

PEF objects to the production of any confidential business documents in response to POD 12 prior to OPC's execution of an appropriate confidentiality agreement with PEF.

Respectfully submitted this 5th day of June, 2006.

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sl 

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY, on behalf of Progress Energy Florida, PEF's Motion for Temporary Protective Order in Docket No. 060007-EI has been furnished by electronic mail (*) or regular U.S. mail to the following this 5th day of June, 2006.

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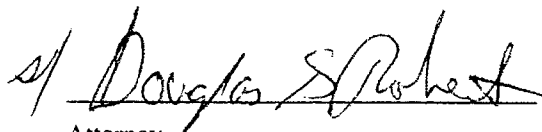
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