

**Ruth Nettles**

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ORIGINAL

**From:** Tibbetts, Arlene [Arlene.Tibbetts@pgnmail.com]  
**Sent:** Tuesday, August 14, 2007 2:27 PM  
**To:** Filings@psc.state.fl.us  
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**Subject:** eFiling: Docket 070001  
**Attachments:** Objections to OPC 2nd Request for PODs.pdf

This electronic filing if made by:

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Docket: 070001-EI  
In re: Fuel and Purchase Power Cost Recovery Clause with Generating Performance Incentive Factor

On behalf of Progress Energy Florida

Consisting of 6 pages  
The attached document for filing is PEF's Objections to OPC's Second Request for Production of Documents (Nos. 2-16)  
<<Objections to OPC 2nd Request for PODs.pdf>>

ORIGINAL

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

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In re: Fuel and Purchased Power Cost  
Recovery Clause with Generating  
Performance Incentive Factor

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Docket No. 070001-EI

Submitted for Filing: August 14, 2007

**PEF'S OBJECTIONS TO OPC'S SECOND  
REQUEST TO PRODUCE DOCUMENTS (Nos. 2-16)**

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 the Office of Public Counsel's ("OPC's") Second Request to Produce Documents (Nos. 2-16) and states as follows:

**GENERAL OBJECTIONS**

PEF generally objects to the time and place of production requirement in OPC's Second 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 Ave., 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, or handling of the responsive documents.

With respect to the "Definitions" in OPC's Second 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. PEF objects to any definition or request that seeks to encompass persons or entities other than PEF who are not parties to this action and that are otherwise not subject to discovery. Furthermore, PEF objects to any request that calls for PEF to create

DOCUMENT NUMBER-DATE

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documents that it otherwise does not have because there is no such requirement under the applicable rules and law.

Additionally, PEF generally objects to OPC's requests to the extent that they call for documents 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. PEF will provide a privilege log in accordance with the applicable law or as may be agreed to by the parties to the extent, if at all, that any document request calls for the production of privileged or protected documents.

Further, in certain circumstances, PEF may determine upon investigation and analysis that documents responsive to certain requests 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 a request, 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 generally objects to OPC's Second 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.

PEF also objects to any Interrogatory or Request for Production that purports to require PEF or its experts to prepare studies, analyses, or to do work for OPC that has not been done for PEF, presumably at PEF's cost.

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 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 2:** Subject to the Company's general objections, and without waiving same, PEF objects to this request to the extent that it asks PEF to provide OPC with confidential information. Subject to and without waiving these objections or any of PEF's general objections, and under appropriate protection of confidentiality by means of a confidentiality agreement executed by OPC, protective order issued by the Commission, or the procedures otherwise provided by law or in the Order Establishing Procedure, PEF will provide OPC copies of confidential portions of FPSC Form 423s for January and February 2007 that are filed with the PSC.

**Request 5:** PEF objects to OPC's use of the term "all summaries of fuel procurement activities" in the request because such term is vague and ambiguous and, if read literally, makes

the scope of request number 5 overbroad and unduly burdensome because “all summaries of fuel procurement activities” that is “in conjunction with” the PFC fuel procurement contract could encompass any and every document related to fuel procurement that the Company may have. In response to this request, PEF will produce a copy of PEF monthly fuel summaries, if any, pertaining to fuel procurement from January 1, 2006 to date.

**Request 7:** Subject to the Company’s general objections, and without waiving same, PEF objects to this request to the extent it asks for information regarding entities that are not acting on PEF’s behalf.

**Request 10:** Subject to the Company’s general objections, and without waiving same, PEF objects to this request to the extent that it calls for a legal opinion or legal conclusion.

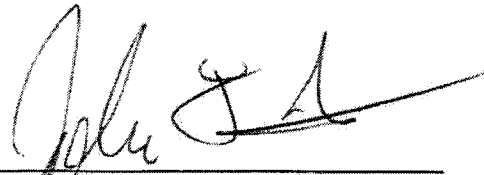
**Request 11:** Subject to the Company’s general objections, and without waiving same, PEF objects to this request to the extent that it calls for a legal opinion or legal conclusion.

**Request 13:** Subject to the Company’s general objections, and without waiving same, PEF objects to this request, in part, as the information requested as of January 1, 2002 is irrelevant, overly broad, and outside the scope of this proceeding since documents and information prior to 2006 have no relevance to or bearing on this proceeding.

**Request 14:** Subject to the Company’s general objections, and without waiving same, PEF objects to this request, in part, as the information requested as of January 1, 2004 is irrelevant, overly broad, and outside the scope of this proceeding since such documents and information have no relevance to or bearing on this proceeding. PEF also objects to OPC’s use of the term “all internal documents” in the request because such term is vague and ambiguous and, if read literally, makes the scope of request number 14 overbroad and unduly burdensome because “all internal documents” that “relate to or discuss costs that may be recovered through the fuel clause” could encompass any and every document related to fuel costs in any way .

**Request 15:** Subject to the Company's general objections, and without waiving same, PEF objects to Request for Production of Documents No. 15, in part, as the information requested as of January 1, 2005 is irrelevant, overly broad, and outside the scope of this proceeding since such documents and information have no relevance to or bearing on this proceeding.

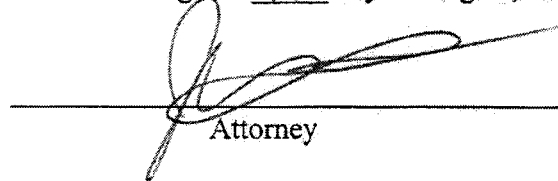
**Request 16:** Subject to the Company's general objections, and without waiving same, PEF objects to Request for Production of Documents No. 16, in part, as the information prior to 2006 has no relevance to or bearing on this proceeding.



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**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of Progress Energy Florida, Inc.'s Objections to Citizens Second Request for Production (Nos. 2-16), in Docket No. 070001-EI has been furnished by regular U.S. mail to the following this 14<sup>th</sup> day of August, 2007.

  
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