

**BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

---

In re: Nuclear Cost Recovery  
Clause

Docket No. 090009-EI  
Submitted for filing: April 16, 2009

---

**PEF'S OBJECTIONS TO OPC'S FIRST REQUEST FOR PRODUCTION OF  
DOCUMENTS (NOS. 1-52)**

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 Office of Public Counsel's ("OPC") First Requests for Production of Documents (Nos. 1-52) and states as follows:

**GENERAL OBJECTIONS**

PEF will make all responsive documents available for inspection and copying at the offices of PEF, 106 E. College Ave., Suite 800, 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" and "Instructions" in OPC's Requests for Production, 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 definition or request 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 requests will be made on behalf of persons or entities other than PEF. PEF also objects to OPC's request that PEF provide documents in a specific electronic format. Furthermore, PEF objects to any request that calls for PEF to create 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 (the "Order"). 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, and all other applicable statutes, rules and legal principles.

PEF generally objects to OPC's Requests for Production to the extent that they call 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 under the Florida Rules of Civil Procedure and the Order. PEF provides these general objections at this time to comply with the intent of the Order to reduce the delay in identifying and resolving any potential discovery disputes.

### **SPECIFIC OBJECTIONS**

**Request 2:** PEF objects to OPC’s request number 2 to the extent it requests PEF to obtain documents from other entities (i.e. supporting workpapers from external auditors) that are not within PEF’s possession, custody or control. PEF objects to any request that seeks to encompass persons or entities other than PEF that are not parties to this action and thus are not subject to discovery. No responses to the requests will be made on behalf of persons or entities other than PEF.

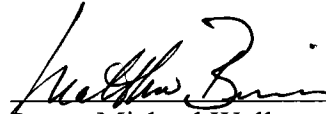
**Request 17:** PEF objects to OPC’s request number 17 to the extent it requests PEF to obtain documents from other entities (i.e. supporting workpapers from external auditors) that are not within PEF’s possession, custody or control. PEF objects to any request that seeks to encompass persons or entities other than PEF that are not parties to this action and thus are not

subject to discovery. No responses to the requests will be made on behalf of persons or entities other than PEF.

**Request 40:** PEF objects to OPC's request number 40 to the extent that it requires PEF to create a document to be produced in discovery, as neither the rules of discovery nor the Order require PEF to produce documents not in existence. If the document exists as requested PEF will produce it in response to this request.

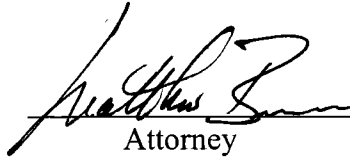
Respectfully submitted this 11<sup>th</sup> day of April, 2009.

R. Alexander Glenn  
General Counsel  
John Burnett  
Associate General Counsel  
PROGRESS ENERGY SERVICE  
COMPANY, LLC  
Post Office Box 14042  
St. Petersburg, FL 33733-4042  
Telephone: (727) 820-5587  
Facsimile: (727) 820-5519

  
James Michael Walls  
Florida Bar No. 0706242  
Dianne M. Triplett  
Florida Bar No. 0872431  
Matthew R. Bernier  
Florida Bar No. 0059886  
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 12<sup>th</sup> day of April, 2009 to all counsel of record as indicated below.

  
\_\_\_\_\_  
Attorney

**COUNSEL OF RECORD**

Mr. Paul Lewis, Jr.  
Progress Energy Florida, Inc.  
106 East College Avenue, Ste. 800  
Tallahassee, FL 32301-7740  
Phone: (850) 222-8738  
Facsimile: (850) 222-9768  
Email: [paul.lewisjr@pgnmail.com](mailto:paul.lewisjr@pgnmail.com)

Keino Young  
Lisa Bennett  
Jennifer Brubaker  
Staff Attorney  
Florida Public Service Commission  
2540 Shumard Oak Blvd  
Tallahassee 32399  
Phone: (850) 413-6218  
Facsimile: (850) 413-6184  
Email: [kyoung@psc.state.fl.us](mailto:kyoung@psc.state.fl.us)  
[lbennett@psc.state.fl.us](mailto:lbennett@psc.state.fl.us)  
[jbrubake@psc.state.fl.us](mailto:jbrubake@psc.state.fl.us)

Charles Rehwinkle  
Associate Counsel  
Office of Public Counsel  
c/o The Florida Legislature  
111 West Madison Street  
Room 812  
Tallahassee, FL 32399-1400  
Phone: (850) 488-9330  
Email: [rehwinkle.charles@leg.state.fl.us](mailto:rehwinkle.charles@leg.state.fl.us)

Bryan S. Anderson  
Jessica Cano  
Florida Power & Light  
700 Universe Boulevard  
Juno Beach, FL 33408-0420  
Phone: (561) 691-7101  
Facsimile: (561) 691-7135  
Email: [bryan.anderson@fpl.com](mailto:bryan.anderson@fpl.com)  
[Jessica.cano@fpl.com](mailto:Jessica.cano@fpl.com)

John W. McWhirter  
McWhirter Law Firm  
400 North Tampa Street, Ste. 2450  
Tampa, FL 33602  
Phone: (813) 224-0866  
Facsimile: (813) 221-1854  
Email: [jmcwhirter@mac-law.com](mailto:jmcwhirter@mac-law.com)

James W. Brew  
Brickfield Burchette Ritts & Stone, PC  
1025 Thomas Jefferson St NW  
8th FL West Tower  
Washington, DC 20007-5201  
Phone: (202) 342-0800  
Fax: (202) 342-0807  
Email: [jbrew@bbrslaw.com](mailto:jbrew@bbrslaw.com)

Michael B. Twomey  
AARP  
Post Office Box 5256  
Tallahassee, FL 32305  
Phone: (850) 421-9530  
Email: [Miketwomey@talstar.com](mailto:Miketwomey@talstar.com)

Karin S. Torain  
PCS Administration (USA), Inc.  
Suite 400  
Skokie Blvd.  
Northbrook, IL 60062  
Phone: (847) 849-4291  
Email: [KSTorain@potashcorp.com](mailto:KSTorain@potashcorp.com)

Thomas Saporito  
Saporito Energy Consultants  
Post Office Box 8413  
Jupiter, FL 33468-8413  
Phone: (561) 283-0613  
Email: [saporito3@gmail.com](mailto:saporito3@gmail.com)