

## Ruth Nettles

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**Subject:** Electronic Filing for Docket No. 090079-EI  
**Attachments:** PEF Object to OPC 3rd Set of Interrogatories.pdf

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The filing is to be made in Docket 090079-EI, In re: Petition for rate increase in rates by Progress Energy Florida, Inc.;

The total number of pages is 12;

The attached document is Progress Energy Florida, Inc.'s Objections to OPC's Third Set of Interrogatories (Nos. 109-156).

Thank you.

**CARLTON FIELDS**  
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5/4/2009

**BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

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In re: Petition for Increase in Rates  
by Progress Energy Florida, Inc.

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Docket No. 090079-EI  
Submitted for filing: May 4, 2009

**PEF'S OBJECTIONS TO OPC'S THIRD SET OF  
INTERROGATORIES (NOS. 109-156)**

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") Third Set of Interrogatories (Nos.109-156) 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 any "Definitions" and "Instructions" in OPC's Interrogatories, 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

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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 Interrogatories 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 Interrogatories 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 Interrogatories 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 request that calls for projected data or information beyond the year 2010 because such data or information is wholly irrelevant to this case and has no bearing on this proceeding, nor is such data or information reasonably calculated to lead to the discovery of admissible evidence. Furthermore, if a request does not specify a timeframe for which data or information is sought, PEF will interpret such request as calling only for data and information relevant to the years 2006-2010.

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 109:** PEF objects to OPC's interrogatory number 109 to the extent it seeks information from 2004 and 2005, as that information is irrelevant to these proceedings, and is not reasonably calculated to lead to the discovery of admissible evidence.

**Request 110:** PEF objects to OPC's interrogatory number 110 to the extent it seeks information from 2004 and 2005, as that information is irrelevant to these proceedings, and is not reasonably calculated to lead to the discovery of admissible evidence.

**Request 111:** PEF objects to OPC's interrogatory number 111(a) and (b) because they call for PEF to provide information on behalf of other entities (i.e., "Progress Energy (the holding company) or its subsidiaries") that are not parties to this proceeding. PEF objects to any 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 interrogatories will be made on behalf of persons or entities other than PEF.

**Request 112:** PEF objects to OPC's interrogatory number 112(d) because it calls for PEF to provide information on behalf of other entities (i.e., "the affiliate" referenced in earlier subparts of the interrogatory) that are not parties to this proceeding. PEF objects to any 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 interrogatories will be made on behalf of persons or entities other than PEF.

**Request 113:** PEF objects to OPC's interrogatory number 113 because it calls for PEF to "explain in detail" and the rules simply require an answer and not some subjective characterization of the answer.

**Request 118:** PEF objects to OPC's interrogatory number 118 because it calls for PEF to "provide a detailed description" and the rules simply require an answer and not some subjective characterization of the answer.

**Request 119:** PEF objects to OPC's interrogatory number 119 because it calls for PEF to provide "a detailed description" and the "Company's best estimate", whereas the rules simply

require an answer and not some subjective characterization of the answer. PEF further objects to this interrogatory to the extent it calls for PEF to provide information on behalf of other entities (i.e., "Progress Energy") that are not parties to this proceeding. PEF objects to any 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 interrogatories will be made on behalf of persons or entities other than PEF.

**Request 120:** PEF objects to OPC's interrogatory number 120 because it calls for PEF to "describe, in detail" and provide a "detailed description", whereas the rules simply require an answer and not some subjective characterization of the answer.

**Request 121:** PEF objects to OPC's interrogatory number 121 because it calls for PEF to "describe, in detail" and provide a "detailed description", whereas the rules simply require an answer and not some subjective characterization of the answer. PEF further objects to this interrogatory to the extent that it seeks projected information for 2011. The 2011 projected information, if any exists, is irrelevant to this case and has no bearing on this proceeding, nor is that information reasonably calculated to lead to the discovery of admissible evidence.

**Request 122:** PEF objects to OPC's interrogatory number 122 to the extent it seeks information from the years 2004, 2005 and projected information from 2011. The 2004 and 2005 information, and the 2011 projected information, if any exists, is irrelevant to this case and has no bearing on this proceeding, nor is that information reasonably calculated to lead to the discovery of admissible evidence.

**Request 125:** PEF objects to OPC's interrogatory number 125 to the extent it seeks information from 2005. The 2005 information is irrelevant to this case and has no bearing on this proceeding, nor is that information reasonably calculated to lead to the discovery of admissible

evidence. PEF also objects to this interrogatory to the extent that it requires PEF to collect, assimilate, and analyze data to create the information that OPC requests. PEF is not required by the rules or Order to perform studies in order to respond to a discovery request.

**Request 127:** PEF objects to OPC's interrogatory number 127 to the extent it seeks information from 2004 and 2005. The 2004 and 2005 information is irrelevant to this case and has no bearing on this proceeding, nor is that information reasonably calculated to lead to the discovery of admissible evidence. PEF also objects to this interrogatory to the extent that it requires PEF to collect, assimilate, and analyze data to create the information that OPC requests. PEF is not required by the rules or Order to perform studies in order to respond to a discovery request.

**Request 128:** PEF objects to OPC's interrogatory number 128 to the extent it seeks information from 2005. The 2005 information is irrelevant to this case and has no bearing on this proceeding, nor is that information reasonably calculated to lead to the discovery of admissible evidence. PEF also objects to this interrogatory to the extent that it requires PEF to collect, assimilate, and analyze data to create the information that OPC requests. PEF is not required by the rules or Order to perform studies in order to respond to a discovery request.

**Request 129:** PEF objects to OPC's interrogatory number 129 to the extent it seeks information from 2004 and 2005. The 2004 and 2005 information is irrelevant to this case and has no bearing on this proceeding, nor is that information reasonably calculated to lead to the discovery of admissible evidence. PEF also objects to this interrogatory to the extent that it requires PEF to collect, assimilate, and analyze data to create the information that OPC requests. PEF is not required by the rules or Order to perform studies in order to respond to a discovery request.

**Request 130:** PEF objects to OPC's interrogatory number 130 because it calls for PEF to "Explain, in detail" and the rules simply require an answer and not some subjective characterization of the answer.

**Request 131:** PEF objects to OPC's interrogatory number 131 to the extent it seeks information from 2004 and 2005. The 2004 and 2005 information is irrelevant to this case and has no bearing on this proceeding, nor is that information reasonably calculated to lead to the discovery of admissible evidence.

**Request 132:** PEF objects to OPC's interrogatory number 132 to the extent it seeks information from 2004 and 2005. The 2004 and 2005 information is irrelevant to this case and has no bearing on this proceeding, nor is that information reasonably calculated to lead to the discovery of admissible evidence.

**Request 133:** PEF objects to OPC's interrogatory number 133 to the extent it seeks information from 2005. The 2005 information is irrelevant to this case and has no bearing on this proceeding, nor is that information reasonably calculated to lead to the discovery of admissible evidence.

**Request 134:** PEF objects to OPC's interrogatory number 134 to the extent it seeks information from 2004 and 2005. The 2004 and 2005 information is irrelevant to this case and has no bearing on this proceeding, nor is that information reasonably calculated to lead to the discovery of admissible evidence.

**Request 135:** PEF objects to OPC's interrogatory number 135 to the extent it seeks information from 2004 and 2005. The 2004 and 2005 information is irrelevant to this case and has no bearing on this proceeding, nor is that information reasonably calculated to lead to the discovery of admissible evidence. PEF further objects to this interrogatory because it calls for PEF



to “explain, in detail” and the rules simply require an answer and not some subjective characterization of the answer.

**Request 136:** PEF objects to OPC’s interrogatory number 136 to the extent it seeks information from 2004 and 2005. The 2004 and 2005 information is irrelevant to this case and has no bearing on this proceeding, nor is that information reasonably calculated to lead to the discovery of admissible evidence.

**Request 138:** PEF objects to OPC’s interrogatory number 138 to the extent it seeks information from 2004 and 2005. The 2004 and 2005 information is irrelevant to this case and has no bearing on this proceeding, nor is that information reasonably calculated to lead to the discovery of admissible evidence.

**Request 139:** PEF objects to OPC’s interrogatory number 139 to the extent it seeks information from 2004 and 2005. The 2004 and 2005 information is irrelevant to this case and has no bearing on this proceeding, nor is that information reasonably calculated to lead to the discovery of admissible evidence.

**Request 143:** PEF objects to OPC’s interrogatory number 143 to the extent it seeks information from 2005. The 2005 information is irrelevant to this case and has no bearing on this proceeding, nor is that information reasonably calculated to lead to the discovery of admissible evidence.

**Request 144:** PEF objects to OPC’s interrogatory number 144 to the extent it seeks information from 2005. The 2005 information is irrelevant to this case and has no bearing on this proceeding, nor is that information reasonably calculated to lead to the discovery of admissible evidence.

**Request 146:** PEF objects to OPC’s interrogatory number 146 to the extent it seeks

information from 2004 and 2005. The 2004 and 2005 information is irrelevant to this case and has no bearing on this proceeding, nor is that information reasonably calculated to lead to the discovery of admissible evidence. PEF further objects to this interrogatory to the extent that it requires PEF to collect, assimilate, and analyze data to create the information that OPC requests. PEF is not required by the rules or Order to perform studies or create documents in order to respond to a discovery request.

**Request 147:** PEF objects to OPC's interrogatory number 147 to the extent it seeks information from 2004 and 2005. The 2004 and 2005 information is irrelevant to this case and has no bearing on this proceeding, nor is that information reasonably calculated to lead to the discovery of admissible evidence. PEF further objects to this interrogatory to the extent that it requires PEF to collect, assimilate, and analyze data to create the information that OPC requests. PEF is not required by the rules or Order to perform studies or create documents in order to respond to a discovery request.

**Request 148:** PEF objects to OPC's interrogatory number 148 to the extent it seeks information from 2004 and 2005. The 2004 and 2005 information is irrelevant to this case and has no bearing on this proceeding, nor is that information reasonably calculated to lead to the discovery of admissible evidence.

**Request 150:** PEF objects to OPC's interrogatory number 150 to the extent it seeks information from 2004 and 2005. The 2004 and 2005 information is irrelevant to this case and has no bearing on this proceeding, nor is that information reasonably calculated to lead to the discovery of admissible evidence.

**Request 152:** PEF objects to OPC's interrogatory number 152(a) to the extent it seeks information from 2004 and 2005. The 2004 and 2005 information is irrelevant to this case and

has no bearing on this proceeding, nor is that information reasonably calculated to lead to the discovery of admissible evidence. PEF objects to interrogatory 152(b) and (d) because they call for PEF to “show, in detail” and provide a “detailed description”, whereas the rules simply require an answer and not some subjective characterization of the answer. PEF further objects to 152(e) to the extent it seeks information from 2005 and projected for 2011. The information from 2005 and the 2011 projected information, if any exists, is irrelevant to this case and has no bearing on this proceeding, nor is that information reasonably calculated to lead to the discovery of admissible evidence.

**Request 153:** PEF objects to OPC’s interrogatory number 153 to the extent it seeks information that predates 2006, as that information is irrelevant to this case and has no bearing on this proceeding, nor is the information reasonably calculated to lead to the discovery of admissible evidence.

**Request 154:** PEF objects to OPC’s interrogatory 154 because it calls for PEF to provide a “detailed calculation” and “explain, in detail”, whereas the rules simply require an answer and not some subjective characterization of the answer

**Request 155:** PEF objects to OPC’s interrogatory number 155 to the extent it seeks information projected for 2011. The 2011 projected information, if any exists, is irrelevant to this case and has no bearing on this proceeding, nor is that information reasonably calculated to lead to the discovery of admissible evidence.

**Request 156:** PEF objects to OPC’s interrogatory number 156 to the extent it seeks information from 2004 and 2005. The 2004 and 2005 information is irrelevant to this case and has no bearing on this proceeding, nor is that information reasonably calculated to lead to the discovery of admissible evidence.

Respectfully submitted,



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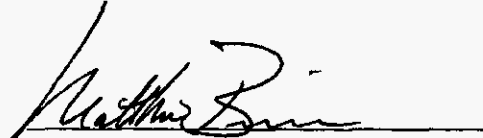
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**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the foregoing has been served via electronic and U.S. Mail to the following counsel of record as indicated below on this 4<sup>th</sup> day of May, 2009.

  
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