

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

IN RE:

PETITION FOR INCREASE IN RATES
BY PROGRESS ENERGY FLORIDA, INC.

Docket No. 090079-EI
Submitted for filing: June 1, 2009

PEF'S OBJECTIONS TO OPC'S SIXTH SET OF INTERROGATORIES (NOS. 209-279)

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" or "Citizens") Sixth Set of Interrogatories (Nos.209-279) 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

other than PEF. PEF also objects to Citizens' 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 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 likely 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 233: PEF objects to OPC’s interrogatory number 233 to the extent that it requests data and information from the years 2004 and 2005. That information is irrelevant, has no bearing on these proceedings, and is not reasonably calculated to lead to the discovery of admissible evidence.

Request 236: PEF objects to OPC's interrogatory number 236 to the extent that it requests data and information from the years 2004 and 2005. That information is irrelevant, has no bearing on these proceedings, and is not reasonably calculated to lead to the discovery of admissible evidence.

Request 238: PEF objects to OPC's interrogatory number 238 to the extent that it requests data and information from the years 2004 and 2005. That information is irrelevant, has no bearing on these proceedings, and is not reasonably calculated to lead to the discovery of admissible evidence.

Request 250: PEF objects to OPC's interrogatory number 250 because it calls for PEF to provide a "more detailed explanation" and the rules simply require an answer and not some subjective characterization of the answer.

Request 252: PEF objects to OPC's interrogatory number 252 to the extent that it requests data and information from the years 2004 and 2005. That information is irrelevant, has no bearing on these proceedings, and is not reasonably calculated to lead to the discovery of admissible evidence.

Request 253: PEF objects to OPC's interrogatory number 253 to the extent that it requests data and information from the year 2004. That information is irrelevant, has no bearing on these proceedings, and is not reasonably calculated to lead to the discovery of admissible evidence.

Request 254: PEF objects to OPC's interrogatory number 254 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 255: PEF objects to OPC's interrogatory number 255 to the extent that it requests data and information from the years 2004 and 2005. That information is irrelevant, has no bearing on these proceedings, and is not reasonably calculated to lead to the discovery of admissible evidence.

Request 256: PEF objects to OPC's interrogatory number 256 to the extent that it requests data and information from the year 2004. That information is irrelevant, has no bearing on these proceedings, and is not reasonably calculated to lead to the discovery of admissible evidence.

Request 257: PEF objects to OPC's interrogatory number 257 to the extent that it requests data and information from the year 2004. That information is irrelevant, has no bearing on these proceedings, and is not reasonably calculated to lead to the discovery of admissible evidence.

Request 258: PEF objects to OPC's interrogatory number 258 because it fails to ask a question.

Request 259: PEF objects to OPC's interrogatory number 259 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 260: PEF objects to OPC's interrogatory number 260 because it calls for PEF to provide a "detail [sic] explanation" and the rules simply require an answer and not some subjective characterization of the answer.

Request 265: PEF objects to OPC's interrogatory number 265 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 266: PEF objects to OPC's interrogatory number 266 to the extent that it requests data and information from the years 2000 through 2005. That information is irrelevant, has no bearing on these proceedings, and is not reasonably calculated to lead to the discovery of admissible evidence.

Request 269: PEF objects to OPC's interrogatory number 269 to the extent that it requests data and information from the years 2004 and 2005. That information is irrelevant, has no bearing on these proceedings, and is not reasonably calculated to lead to the discovery of admissible evidence.

Request 270: PEF objects to OPC's interrogatory number 270 to the extent that it requests data and information from the years 2004 and 2005. That information is irrelevant, has no bearing on these proceedings, and is not reasonably calculated to lead to the discovery of admissible evidence.

Request 278: PEF objects to OPC's interrogatory number 278 to the extent that it requests data and information from the years 2004 and 2005. That information is irrelevant, has no bearing on these proceedings, and is not reasonably calculated to lead to the discovery of admissible evidence.

Respectfully submitted this 1st day of June, 2009.



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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 1st day of June, 2009.



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