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**Subject:** Filing Docket 090079  
**Attachments:** PEF Objections to OPC's Seventh Set Of Interrogatories.pdf



PEF Objections  
to OPC's Sevent.

Docket 090079

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

1. This filing is made by:

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2. Document contains six (6) pages

3. This filing is made on behalf of Progress Energy Florida, Inc.

4. Document being filed is Progress Energy Florida, Inc.'s  
Objections to Citizens' Seventh Set of Interrogatories (Nos. 280-317)

**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: June 10, 2009

**PEF'S OBJECTIONS TO CITIZENS' SEVENTH SET  
OF INTERROGATORIES (NOS. 280-317)**

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") Seventh Set of Interrogatories (Nos. 280-317) 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 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 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 287:** PEF objects to OPC’s interrogatory number 287 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 288:** PEF objects to OPC's interrogatory number 288 because it calls for PEF to provide a "general description" and the rules simply require an answer and not some subjective characterization of the answer.

**Request 291:** PEF objects to OPC's interrogatory number 291 because it calls for PEF to provide a "detailed explanation" and the rules simply require an answer and not some subjective characterization of the answer.

**Request 298:** PEF objects to OPC's interrogatory number 298 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 302:** PEF objects to OPC's interrogatory number 302 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 311:** PEF objects to OPC's interrogatory number 311 because it is vague and ambiguous; specifically, the interrogatory directs PEF to refer to Staff's Interrogatory 6(b), which addresses dismantlement projects, to answer the interrogatory but then addresses capital construction projects, making it unclear whether the interrogatory requests information about PEF dismantlement or PEF capital construction projects. The interrogatory is therefore facially unclear and ambiguous.

**Request 314:** PEF objects to OPC's interrogatory number 314 because it calls for PEF to provide a "detailed explanation" and the rules simply require an answer and not some subjective characterization of the answer.

**Request 315:** PEF objects to OPC's interrogatory number 315 because it calls for PEF to provide a "detailed explanation" and the rules simply require an answer and not some subjective characterization of the answer.

**Requests 309-317:** PEF objects to OPC's interrogatories numbers 309-317 because these interrogatories are in violation of the Order limiting each party to 500 interrogatories, including subparts.

Respectfully submitted this 10<sup>th</sup> day of June, 2009.

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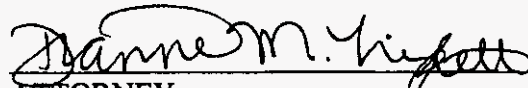
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**CERTIFICATE OF SERVICE**

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 10<sup>th</sup> day of June, 2009.

  
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