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Sent: Monday, April 19, 2010 11:58 AM

To: Filings@psc.state.fl.us

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Subject: Docket 100002-EG Filing: PEF's Objections to OPC's 1st Request for Production of Documents

Attachments: PEF Objections to OPC's 1st PODs (Nos. 1-3).pdf

This electronic filing is made by:

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Docket: 100002-EG

In re: Energy conservation cost recovery clause

On behalf of Progress Energy Florida

Consisting of 6 pages

The attached document for filing is PEF's Objections to OPC's 1st Request for PODs

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Energy conservation cost recovery clause.	)))	Docket No. 100002-EG Filed: April 19, 2010

PEF'S OBJECTIONS TO OFFICE OF PUBLIC COUNSEL'S FIRST REQUEST FOR PRODUCTION OF DOCUMENTS (Nos. 1-3)

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") First Request for Production of Documents (Nos. 1-3) and states as follows:

GENERAL OBJECTIONS

PEF generally objects to the time and place of production requirement in OPC's First 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" and "Instructions" in OPC's First Request for Production of 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 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 request 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 First Request for Production of 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.

Additionally, PEF objects to OPC's First Request for Production because that request calls, in part, for PEF to produce documents in an undefined searchable electronic format irrespective of whether or not PEF has the documents in question in a searchable electronic format. If PEF has any responsive documents in a searchable electronic format, PEF will provide those documents to OPC in those forms. Otherwise, PEF will produce documents to OPC in hard-copy format.

Finally, PEF objects to any attempt by OPC to evade the numerical limitations set on document requests in the Order Establishing Procedure by asking multiple independent questions within single individual questions and subparts.

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

Requests 1-3: PEF objects to Requests 1, 2, and 3, in part, as irrelevant, overbroad, and not likely to lead to the discovery of admissible evidence. Specifically, PEF objects to OPC's request for documents and information originating since January 1, 1998, since such documents and information have no relevance to or bearing on this proceeding. Subject to and without waiving these objections or any of PEF's general objections, PEF will produce any such policies and procedures that are currently in effect, and/or any such documents that the company is using in the normal course of its business.

Request 3: To the extent that PEF has the legal right and/or permission to provide any such information that may be the property of a third-party owner, PEF will provide such documents, subject to the additional objections stated above.

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished via electronic and U.S. Mail this 19th day of April, 2010 to all parties of record as indicated below.

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