

## Diamond Williams

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**Sent:** Monday, June 06, 2011 10:14 AM  
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**Subject:** Filing Docket 110009  
**Attachments:** Docket 110009 PEF Objections Citizens 6th Req for Production.pdf; Docket 110009 PEF Objections Citizens' 6th Interr (Nos. 178).pdf



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<<Docket 110009 PEF Objections Citizens' 6th Interr (Nos. 178).pdf>> cket 110009 In re: Nuclear Cost Recovery Clause

1. Attached for filing are two (2) documents:
  - a. Progress Energy Florida, Inc.'s Objections to Citizens' Sixth Set of Interrogatories (No. 178) [6 pages]; and
  - b. Progress Energy Florida, Inc.'s Objections to Citizens' Sixth Request for Production of Documents (Nos. 37 & 38) [6 pages].
2. This filing is made on behalf of Progress Energy Florida, Inc.  
by

Jeanne Costello on behalf of Blaise N. Huhta Carlton Fields, P.A.  
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Thank you for assistance in this regard.

**BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

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In re: Nuclear Cost Recovery  
Clause

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Docket No. 110009-EI  
Submitted for filing: June 6, 2011

**PROGRESS ENERGY FLORIDA, INC.'S OBJECTIONS TO CITIZENS'  
SIXTH REQUEST FOR PRODUCTION OF DOCUMENTS (NOS. 37 & 38)**

Pursuant to Fla. Admin. Code Rule 28-106.206, Rules 1.350 and 1.280 of the Florida Rules of Civil Procedure, and the Order Establishing Procedure in this matter, Progress Energy Florida, Inc. ("PEF" or the "Company") hereby serves its objections to Office of Public Counsel's ("Citizens" or "OPC") Sixth Request for Production of Documents (Nos. 37 & 38) 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 Sixth Request for Production of Documents, PEF objects to any definitions or instructions that are inconsistent with PEF's discovery obligations under applicable rules. If a question arises as to PEF's discovery obligations, PEF will comply with the applicable rules of the Florida Rules of Civil Procedure and of the Florida Public Service Commission ("Commission") 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 thus are not subject to discovery. No responses to the requests will be made on behalf of persons or entities other than PEF.

PEF objects to OPC's request that PEF provide documents in a specific electronic format. As OPC admits in its request, there is no requirement under the Florida Rules of Civil Procedure or Commission rules that PEF provide responses in a searchable electronic format. Thus, PEF reserves the right to provide documents in electronic format at its discretion. Further, 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. PEF also objects to any request 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.

PEF objects to OPC's instruction that all responsive documents created on or after January 1, 2005 should be provided. The prudence of the Company's nuclear operations prior to January 1, 2009 (for the CR3 Uprate) and January 1, 2010 (for the LNP) has been reviewed by the Commission in previous dockets and those activities are not at issue in this docket. In addition, PEF has produced many if not all of the documents requested in response to previous document requests and as such PEF objects to OPC's requests to the extent they request documents which have been previously produced to OPC as duplicative and overly burdensome to PEF to require it to make a duplicative production of documents.

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, Order No. PSC-11-0179-PCO-EI, issued March 29, 2011 (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 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 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.

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. 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.

Respectfully submitted this 6<sup>th</sup> day of June, 2011.

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY a true and correct copy of the foregoing has been furnished to counsel and parties of record as indicated below via electronic and U.S. Mail this 6<sup>th</sup> day of June, 2011.

  
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