

ORIGINAL

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for rate increase by  
Progress Energy Florida, Inc.

Docket No. 050078-E1  
Submitted for filing:  
May 16, 2005

**PEF'S OBJECTIONS TO STAFF'S FIRST SET OF INTERROGATORIES TO  
PROGRESS ENERGY FLORIDA, INC. NOS. 1-92**

Pursuant to Fla. Admin. Code R. 28-106.206, Rule 1.340 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 Florida Public Service Commission Staff's ("Staff") First Set of Interrogatories to PEF, Nos. 1-92, and states as follows:

**GENERAL OBJECTIONS**

While PEF will endeavor to respond to Staff's discovery requests whenever possible, PEF respectfully must object to Staff's First Set of Interrogatories, Nos. 1 through 92, to the extent that they are improper under the applicable rules and Order. To begin with, PEF respectfully objects to any direction, definition, or instruction in the introductory paragraph, the

CMP \_\_\_\_\_ "Definitions" and the "Instructions" in Staff's First Set of Interrogatories to PEF, Nos. 1-92, that  
COM \_\_\_\_\_ is inconsistent with PEF's discovery obligations under applicable rules. If some question arises  
CTR \_\_\_\_\_ as to PEF's discovery obligations, PEF must comply with applicable rules and not with Staff's  
ECR \_\_\_\_\_ directions, definitions, or instructions that are inconsistent with those rules. PEF objects to  
GCL \_\_\_\_\_ Staff's direction that each answer shall be signed by the person making it because no such  
OPC \_\_\_\_\_ obligation exists under the rules. PEF, however, will identify for Staff the individual or  
MMS \_\_\_\_\_ individuals responsible for the substantive answer in its answers to Staff's First Set of  
RCA \_\_\_\_\_  
SCR \_\_\_\_\_  
SEC   1    
OTH \_\_\_\_\_

Interrogatories to PEF. PEF must further object to Staff's definition of the Company to the extent that Staff is attempting to seek information or documents from PEF's in-house or outside attorneys that is protected by the attorney-client or work product privileges. Furthermore, PEF must object to the attempt to request by definition or instruction information that is not requested in a particular interrogatory because nothing in the applicable rules requires PEF to perform such tasks and the definition and instruction necessarily raise questions regarding the limits on the number of interrogatories set forth in the Order. PEF must also object to the attempt to add to the requirements under the rules by Staff's definition when PEF alternatively opts to produce documents in response to an interrogatory. PEF will comply with the rules if and when PEF elects to produce documents in accordance with the rule in lieu of providing a written answer to an interrogatory.

Additionally, PEF generally objects to Staff's First Set of Interrogatories to the extent that they call for information 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. Further, in certain circumstances, PEF may determine that information responsive to certain interrogatories are confidential and proprietary and should be answered 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 must further object to any interrogatory that seeks to encompass persons or entities other than PEF who are not parties to this proceeding and thus are not subject to discovery. No responses to the interrogatories will be made on behalf of persons or entities other than PEF.

PEF must generally object to Staff First Set of Interrogatories to PEF to the extent Staff requests information from entities other than PEF who are not parties to the proceeding and, therefore, are beyond the scope of discovery in a proceeding involving only PEF. PEF will respond to the interrogatories and provide the information requested from PEF but PEF cannot and will not respond on behalf of any other entities.

PEF must also respectfully object to Staff's First Set of Interrogatories to PEF to the extent that they require PEF or PEF's retained experts to develop information or create material for Staff, presumably at PEF's expense. The purpose of discovery, of course, is to obtain information that already exists, not to require the other side to create information or material for the requesting party. PEF, therefore, is not obligated to incur the expense of performing or having its experts perform work for Staff to create information or material that Staff seeks in these interrogatories. In the interest of assisting Staff only in its efforts to gather information for this proceeding, however, PEF will respond to the interrogatories to the extent the work necessary to arrive at the information or material Staff wants is already done in some form or another or can reasonably be done at a practicable cost to PEF. Otherwise, PEF must object to the request because it is improper discovery to serve interrogatories on PEF that require PEF to incur expense to do work or create information for another party.

By making these general objections at this time, PEF does not waive or relinquish its right to assert additional general and specific objections to Staff'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**

**Request 1:** Subject to the Company's general objections, and without waiving same, PEF must object to Staff's interrogatory number 1 because the interrogatory requires PEF to perform research for Staff and the burden of conducting the necessary research to arrive at the answer is the same for PEF and Staff.

**Request 5:** Subject to the Company's general objections, and without waiving same, PEF must object to Staff's interrogatory number 5 because the interrogatory calls for PEF to provide information about entities other than PEF (i.e. "Progress Ventures"). PEF objects to any interrogatory that seeks information from persons or entities other than PEF who are not parties to this action and thus are not subject to discovery. No responses to the interrogatory will be made on behalf of persons or entities other than PEF.

**Request 6:** Subject to the Company's general objections, and without waiving same, PEF must object to Staff's interrogatory number 6 to the extent that it calls for information other than the 2004 Beta, which is what PEF's expert Dr. Vander Weide used, because the interrogatory improperly requires PEF's expert to prepare a study or do work for Staff that has not been done for PEF, presumably at PEF's cost, is irrelevant and not reasonably calculated to lead to admissible evidence, and, further, is impossible to answer for the years prior to the merger because Progress Energy, Inc. did not exist.

**Request 9:** Subject to the Company's general objections, and without waiving same, PEF must object to Staff's interrogatory number 9 because the interrogatory improperly requires

PEF's expert to prepare a study or do work for Staff that has not been done for PEF, presumably at PEF's cost, and, further, that work would be extensive and time consuming because the requested information is not readily available or discernible in an existing database. Rather, each annual report for the numerous entities identified must be analyzed and estimates must be made from the data to arrive at the information requested. Moreover, there is no reason to undertake such an extensive and costly analysis because the information requested is irrelevant and not reasonably calculated to lead to admissible evidence in this proceeding.

**Request 10:** Subject to the Company's general objections, and without waiving same, PEF must object to Staff's interrogatory number 10 because the interrogatory improperly requires PEF's expert to prepare a study or do work for Staff that has not been done for PEF, presumably at PEF's cost, and, further, that work would be extensive and time consuming because the requested information is not readily available or discernible in an existing database. Rather, each annual report for the numerous entities identified must be analyzed and estimates must be made from the data to arrive at the information requested. Moreover, there is no reason to undertake such an extensive and costly analysis because the information requested is irrelevant and not reasonably calculated to lead to admissible evidence in this proceeding.

**Request 11:** Subject to the Company's general objections, and without waiving same, PEF must object to Staff's interrogatory number 11 because the interrogatory improperly requires PEF's expert to prepare a study or do work for Staff that has not been done for PEF, presumably at PEF's cost, and, further, the information requested is irrelevant and not reasonably calculated to lead to admissible evidence in this proceeding. PEF must further object to interrogatory number 11 because the information is readily available and the burden of obtaining the information should therefore be the same for Staff as for PEF's experts.

**Request 12:** Subject to the Company's general objections, and without waiving same, PEF must object to Staff's interrogatory number 12 because PEF does not know what Staff means by the term "adjusted equity ratio" and the interrogatory is therefore vague, ambiguous, and cannot be answered without more information. The interrogatory also improperly requires PEF's expert to prepare a study or do work for Staff that has not been done for PEF, presumably at PEF's cost, and, further, the information requested is irrelevant and not reasonably calculated to lead to admissible evidence in this proceeding.

**Request 13:** Subject to the Company's general objections, and without waiving same, PEF must object to Staff's interrogatory number 13 to the extent that the interrogatory calls for information for PEF for years prior to the merger because PEF did not exist at the time and any information regarding a prior entity is irrelevant, has no bearing on this proceeding, and is not likely to lead to the discovery of admissible evidence.

**Request 14:** Subject to the Company's general objections, and without waiving same, PEF must object to Staff's interrogatory number 14 to the extent that the interrogatory calls for information for PEF for years prior to the merger because PEF did not exist at the time and any information regarding a prior entity is irrelevant, has no bearing on this proceeding, and is not likely to lead to the discovery of admissible evidence.

**Request 15:** Subject to the Company's general objections, and without waiving same, PEF must object to Staff's interrogatory number 15 to the extent that interrogatory calls for information for 2007 because it is irrelevant, has no bearing on this proceeding, and is not likely to lead to the discovery of admissible evidence.

**Request 16:** Subject to the Company's general objections, and without waiving same, PEF must object to Staff's interrogatory number 16 to the extent that interrogatory calls for

information for 2007 because it is irrelevant, has no bearing on this proceeding, and is not likely to lead to the discovery of admissible evidence.

**Request 17:** Subject to the Company's general objections, and without waiving same, PEF must object to Staff's interrogatory number 17 because the interrogatory calls for information from and about Progress Energy, Inc., not PEF, and Progress Energy, Inc. is not a party to this proceeding. PEF will respond to interrogatories only on behalf of PEF and not on behalf of persons or entities that are not parties to this proceeding.

**Request 18:** Subject to the Company's general objections, and without waiving same, PEF must object to Staff's interrogatory number 18 because the interrogatory calls for information from and about Progress Energy, Inc., not PEF, and Progress Energy, Inc. is not a party to this proceeding. PEF will respond to interrogatories only on behalf of PEF and not on behalf of persons or entities that are not parties to this proceeding.

**Request 24:** Subject to the Company's general objections, and without waiving same, PEF must object to Staff's interrogatory number 24 because the interrogatory improperly requires PEF's expert to prepare a study or do work for Staff that has not been done for PEF, presumably at PEF's cost, and, further, that work would be extensive and time consuming because the requested information is not readily available or discernible from existing data.

**Request 26:** Subject to the Company's general objections, and without waiving same, PEF must object to Staff's interrogatory number 26 to the extent that the interrogatory improperly requires PEF's expert to prepare a study or do work for Staff that has not been done for PEF, presumably at PEF's cost, and, further, that work would be extensive and time consuming because the requested information is not readily available or discernible from existing data.

**Request 27:** Subject to the Company's general objections, and without waiving same, PEF must object to Staff's interrogatory number 27 to the extent that the interrogatory improperly requires PEF's expert to prepare a study or do work for Staff that has not been done for PEF, presumably at PEF's cost, and, further, that work would be extensive and time consuming because the requested information is not readily available or discernible from existing data.

**Request 30:** Subject to the Company's general objections, and without waiving same, PEF must object to the second part of Staff's interrogatory number 30 because the interrogatory improperly requires PEF's expert to prepare a study or do work for Staff that has not been done for PEF, presumably at PEF's cost, and, further, that work would be extensive, time consuming, and costly because the requested information is not readily available or discernible from existing completed analyses and collected data. In fact, the second part of Staff's interrogatory number 30 requires PEF's expert to undertake the same extensive modeling analysis that was performed for PEF for each one of the 98 other companies in the database, generating 98 separate analyses or reports on companies other than PEF, that ultimately has nothing to do with how PEF compares to the industry and is, therefore, irrelevant and not likely to lead to the discovery of admissible evidence.

**Request 31:** Subject to the Company's general objections, and without waiving same, PEF must object to the second part of Staff's interrogatory number 31 because the interrogatory improperly requires PEF's expert to prepare a study or do work for Staff that has not been done for PEF, presumably at PEF's cost, and, further, that work would be extensive, time consuming, and costly because the requested information is not readily available or discernible from existing completed analyses and collected data. In fact, the second part of Staff's interrogatory number



31 requires PEF's expert to undertake the same extensive modeling analysis that was performed for PEF for each one of the 98 other companies in the database, generating 98 separate analyses or reports on companies other than PEF, that ultimately has nothing to do with how PEF compares to the industry and is, therefore, irrelevant and not likely to lead to the discovery of admissible evidence.

**Request 32:** Subject to the Company's general objections, and without waiving same, PEF must object to the second part of Staff's interrogatory number 32 because the interrogatory improperly requires PEF's expert to prepare a study or do work for Staff that has not been done for PEF, presumably at PEF's cost, and, further, that work would be extensive, time consuming, and costly because the requested information is not readily available or discernible from existing completed analyses and collected data. In fact, the second part of Staff's interrogatory number 32 requires PEF's expert to undertake the same extensive modeling analysis that was performed for PEF for each one of the 98 other companies in the database, generating 98 separate analyses or reports on companies other than PEF, that ultimately has nothing to do with how PEF compares to the industry and is, therefore, irrelevant and not likely to lead to the discovery of admissible evidence.

**Request 33:** Subject to the Company's general objections, and without waiving same, PEF must object to the second part of Staff's interrogatory number 33 because the interrogatory improperly requires PEF's expert to prepare a study or do work for Staff that has not been done for PEF, presumably at PEF's cost, and, further, that work would be extensive, time consuming, and costly because the requested information is not readily available or discernible from existing completed analyses and collected data. In fact, the second part of Staff's interrogatory number 33 requires PEF's expert to undertake the same extensive modeling analysis that was performed

for PEF for each one of the 98 other companies in the database, generating 98 separate analyses or reports on companies other than PEF, that ultimately has nothing to do with how PEF compares to the industry and is, therefore, irrelevant and not likely to lead to the discovery of admissible evidence.

**Request 34:** Subject to the Company's general objections, and without waiving same, PEF must object to the second part of Staff's interrogatory number 34 because the interrogatory improperly requires PEF's expert to prepare a study or do work for Staff that has not been done for PEF, presumably at PEF's cost, and, further, that work would be extensive, time consuming, and costly because the requested information is not readily available or discernible from existing completed analyses and collected data. In fact, the second part of Staff's interrogatory number 34 requires PEF's expert to undertake the same extensive modeling analysis that was performed for PEF for each one of the 98 other companies in the database, generating 98 separate analyses or reports on companies other than PEF, that ultimately has nothing to do with how PEF compares to the industry and is, therefore, irrelevant and not likely to lead to the discovery of admissible evidence.

**Request 35:** Subject to the Company's general objections, and without waiving same, PEF must object to the second part of Staff's interrogatory number 35 because the interrogatory improperly requires PEF's expert to prepare a study or do work for Staff that has not been done for PEF, presumably at PEF's cost, and, further, that work would be extensive, time consuming, and costly because the requested information is not readily available or discernible from existing completed analyses and collected data. In fact, the second part of Staff's interrogatory number 35 requires PEF's expert to undertake the same extensive modeling analysis that was performed for PEF for each one of the 98 other companies in the database, generating 98 separate analyses

or reports on companies other than PEF, that ultimately has nothing to do with how PEF compares to the industry and is, therefore, irrelevant and not likely to lead to the discovery of admissible evidence.

**Request 36:** Subject to the Company's general objections, and without waiving same, PEF must object to the second part of Staff's interrogatory number 36 because the interrogatory improperly requires PEF's expert to prepare a study or do work for Staff that has not been done for PEF, presumably at PEF's cost, and, further, that work would be extensive, time consuming, and costly because the requested information is not readily available or discernible from existing completed analyses and collected data. In fact, the second part of Staff's interrogatory number 36 requires PEF's expert to undertake the same extensive modeling analysis that was performed for PEF for each one of the 98 other companies in the database, generating 98 separate analyses or reports on companies other than PEF, that ultimately has nothing to do with how PEF compares to the industry and is, therefore, irrelevant and not likely to lead to the discovery of admissible evidence.

**Request 39:** Subject to the Company's general objections, and without waiving same, PEF must object to Staff's interrogatory number 39 to the extent that the interrogatory improperly requires PEF's expert to prepare a study or do work for Staff that has not been done for PEF, presumably at PEF's cost, and, further, that work would be extensive and time consuming because the requested information is not readily available or discernible from existing data.

**Request 40:** Subject to the Company's general objections, and without waiving same, PEF must object to the second part of Staff's Interrogatory number 40 because it is vague,

ambiguous, and confusing in that it appears to assume as fact statements that are not in the prefiled direct testimony.

**Request 41:** Subject to the Company's general objections, and without waiving same, PEF must object to Staff's interrogatory number 41 to the extent that the interrogatory improperly requires PEF's expert to prepare a study or do work for Staff that has not been done for PEF, presumably at PEF's cost, and, further, that work would be extensive and time consuming because the requested information is not readily available or discernible from existing data.

**Request 50:** Subject to the Company's general objections, and without waiving same, PEF must object to Staff's interrogatory number 50 to the extent that the interrogatory improperly requires PEF to perform work or create information for Staff that has not been done for PEF, presumably at PEF's cost.

**Request 52:** Subject to the Company's general objections, and without waiving same, PEF must object to Staff's interrogatory number 52 to the extent that interrogatory calls for information for 2007 through 2010 because it is irrelevant, has no bearing on this proceeding, and is not likely to lead to the discovery of admissible evidence.

**Request 60:** Subject to the Company's general objections, and without waiving same, PEF must object to Staff's interrogatory number 60 to the extent that the interrogatory improperly requires PEF to perform work or create information for Staff that has not been done for PEF, presumably at PEF's cost.

**Request 61:** Subject to the Company's general objections, and without waiving same, PEF must object to Staff's interrogatory number 61 to the extent that the interrogatory

improperly requires PEF to perform work or create information for Staff that has not been done for PEF, presumably at PEF's cost.

**Request 62:** Subject to the Company's general objections, and without waiving same, PEF must object to Staff's interrogatory number 62 to the extent that interrogatory calls for information for 2007 through 2010 because it is irrelevant, has no bearing on this proceeding, and is not likely to lead to the discovery of admissible evidence.

**Request 63:** Subject to the Company's general objections, and without waiving same, PEF must object to Staff's interrogatory number 63 to the extent that interrogatory calls for information for 2007 through 2010 because it is irrelevant, has no bearing on this proceeding, and is not likely to lead to the discovery of admissible evidence.

**Request 66:** Subject to the Company's general objections, and without waiving same, PEF must object to Staff's interrogatory number 66 to the extent that the interrogatory improperly requires PEF to perform work or create information for Staff that has not been done for PEF, presumably at PEF's cost.

**Request 72:** Subject to the Company's general objections, and without waiving same, PEF must object to Staff's interrogatory number 72 to the extent that interrogatory calls for information for 2007 through 2010 because it is irrelevant, has no bearing on this proceeding, and is not likely to lead to the discovery of admissible evidence.

**Request 73:** Subject to the Company's general objections, and without waiving same, PEF must object to Staff's interrogatory number 73 to the extent that interrogatory calls for information for 2007 through 2010 because it is irrelevant, has no bearing on this proceeding, and is not likely to lead to the discovery of admissible evidence.

**Request 87:** Subject to the Company's general objections, and without waiving same, PEF must object to Staff's interrogatory number 87 to the extent that the interrogatory improperly requires PEF to perform work or create information for Staff that has not been done for PEF, presumably at PEF's cost. PEF further objects to Staff's interrogatory number 87 because PEF does not know what "other utilities" Staff refers to in the interrogatory and, therefore, the interrogatory is vague, ambiguous, and PEF cannot respond.

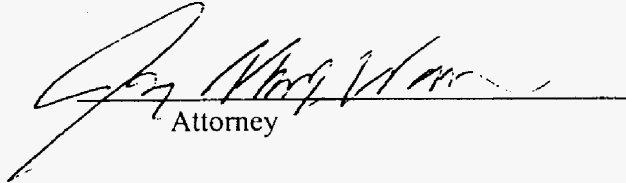
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**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished electronically and via U.S. Mail this 16<sup>th</sup> day of May, 2005 to all counsel of record as indicated below.

  
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