

Timolyn Henry

From: Costello, Jeanne [JCostello@CarltonFields.com]
Sent: Monday, August 08, 2005 4:12 PM
To: Filings@psc.state.fl.us
Cc: miketwomey@talstar.com; tperry@mac-law.com; jmcwhirter@mac-law.com; Jennifer Brubaker; Mclean.harold@leg.state.fl.us; daniel.frank@sablaw.com; everett.boyd@sablaw.com; james.bushee@sablaw.com; KSTorain@potashcorp.com; richzambo@aol.com; mcglothlin.joseph@leg.state.fl.us; swright@landersandparsons.com; Andrew.soto@sablaw.com; Jennifer Rodan; matthew.binette@sablaw.com; ajenkins@mckennalong.com
Subject: Docket No. 050078 Documents for Filing
Attachments: PEF Objections Staff 7th Req for Prod.pdf; PEF Objections Staff's 11th Interrogatories.pdf



PEF Objections PEF Objections
Staff 7th Req f..Staff's 11th In...

Attached for filing and e-service on behalf of Progress Energy Florida are:

1. Progress Energy Florida's Objections to Staff's Ninth Request for Production of Documents (Nos. 65-82); and
2. Progress Energy Florida's Objections to Staff's Eleventh Set of Interrogatories (Nos. 274-349).

Jeanne Costello
 Legal Administrative Assistant
 Gary L. Sasso / James Michael Walls / John T. Burnett Carlton Fields
 4221 W. Boy Scout Blvd.
 Tampa, FL 33607
 Email: jcostello@carltonfields.com
 Phone: (813) 223-7000
 Fax: (813) 229-4133
 www.carltonfields.com

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FPSC-COMMISSION CLERK

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:
August 8, 2005

**PEF'S OBJECTIONS TO STAFF'S NINTH REQUEST FOR
PRODUCTION OF DOCUMENTS (NOS. 65-82)**

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 Staff of the Florida Public Service Commission's ("Staff") Ninth Request for Production of Documents (Nos. 65-82) and states as follows:

GENERAL OBJECTIONS

PEF generally objects to the time and place of production requirement in Staff's Ninth Request for Production of 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 Staff for purposes of inspection, copying, or handling of the responsive documents.

With respect to the "Definitions" in Staff's Ninth Request For Production (Nos. 65-82), 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 Staff's

definitions or instructions that are inconsistent with those rules. PEF also objects to any request that calls for documents to be produced from the files of PEF's outside or in-house counsel in this matter because such documents are privileged and/or work product and are otherwise not within the scope of discovery under the applicable rules and law. 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. 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 Staff'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. 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 Staff's Ninth Request for Production 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 Staff'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 request that calls for projected data or information beyond the year 2006 or prior to 2004 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 2004-2006.

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 65: PEF must object to Staff's request number 65 because that request calls, in part, for PEF to produce data in certain electronic forms irrespective of whether or not PEF has the data in question in the electronic formats sought. If PEF has any responsive data in the electronic forms requested, PEF will provide that data to Staff in those forms. Otherwise, PEF will produce data to Staff in hard-copy format.

Request 78: PEF must object to Staff's request number 65 because that request calls, in part, for PEF to produce data in certain electronic forms irrespective of whether or not PEF has the data in question in the electronic formats sought. If PEF has any responsive data in the electronic forms requested, PEF will provide that data to Staff in those forms. Otherwise, PEF will produce data to Staff in hard-copy format.

Request 79: PEF must object to Staff's request number 65 because that request calls, in part, for PEF to produce data in certain electronic forms irrespective of whether or not PEF has the data in question in the electronic formats sought. If PEF has any responsive data in the electronic forms requested, PEF will provide that data to Staff in those forms. Otherwise, PEF will produce data to Staff in hard-copy format.

Request 80: PEF must object to Staff's request number 65 because that request calls, in part, for PEF to produce data in certain electronic forms irrespective of whether or not PEF has the data in question in the electronic formats sought. If PEF has any

responsive data in the electronic forms requested, PEF will provide that data to Staff in those forms. Otherwise, PEF will produce data to Staff in hard-copy format.

Respectfully submitted,

R. ALEXANDER GLENN
Deputy General Counsel – Florida
PROGRESS ENERGY SERVICE
COMPANY, LLC
100 Central Avenue, Ste. 1D
St. Petersburg, FL 33701
Telephone: (727) 820-5587
Facsimile: (727) 820-5519



GARY L. SASSO
Florida Bar No. 622575
JAMES MICHAEL WALLS
Florida Bar No. 0706272
JOHN T. BURNETT
Florida Bar No. 173304
DIANNE M. TRIPLETT
Florida Bar No. 0872431
CARLTON FIELDS, P.A.
Post Office Box 3239
Tampa, FL 33601-3239
Telephone: (813) 223-7000
Facsimile: (813) 229-4133

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 8th day of August, 2005 to all counsel of record as indicated below.



Attorney

Jennifer Brubaker Felicia Banks Jennifer Rodan Office of the General Counsel Florida Public Service Commission 2540 Shumard Oak Boulevard Tallahassee, FL 32399-0850	John W. McWhirter, Jr. McWhirter, Reeves, Davidson, Kaufman & Arnold, P.A. 400 North Tampa Street, Ste. 2450 Tampa, FL 33601-3350 -and- Timothy J. Perry McWhirter, Reeves, Davidson, Kaufman & Arnold, P.A. 117 South Gadsden Street Tallahassee, FL 32301 Counsel for Florida Industrial Power Users Group
Harold McLean Office of the Public Counsel c/o The Florida Legislature 111 W. Madison Street, Room 812 Tallahassee, FL 32399-1400	C. Everett Boyd, Jr. Sutherland Asbill & Brennan LLP 2282 Killearn Center Blvd. Tallahassee, FL 32309
Mike B. Twomey P.O. Box 5256 Tallahassee, FL 32314-5256 Counsel for AARP and Sugarmill Woods	James M. Bushee Daniel E. Frank Andrew K. Soto Sutherland Asbill & Brennan LLP 1275 Pennsylvania Avenue, N.W. Washington, DC 20004-2415
Robert Scheffel Wright, John T. LaVia, III, Landers & Parsons, P.A. 310 West College Avenue (ZIP 32301) Post Office Box 271 Tallahassee, Florida 32302 Counsel for Florida Retail Federation	Richard A. Zambo Richard A. Zambo, P.A. 2336 S.E. Ocean Boulevard, #309 Stuart, Florida 34996

<p>Alan R. Jenkins McKenna Long & Aldridge LLP One Peachtree Center 303 Peachtree Street, Suite 5300 Atlanta, Georgia 30308</p> <p>Counsel for the Commercial Group</p> <p>Christopher M. Kise, Solicitor General and Jack Shreve, Senior General Counsel OFFICE OF THE ATTORNEY GENERAL The Capitol-PL01 Tallahassee, Florida, 32399-1050</p> <p>Counsel for the Attorney General</p>	<p>-and-</p> <p>Karin S. Torain PCS Administration, (USA), Inc. Suite 400 Skokie blvd. Northbrook, IL 60062</p> <p>Counsel for White Springs</p>
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