

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition on behalf of Citizens of the
State of Florida to require Progress Energy
Florida, Inc. to refund to customers \$143 million

Docket No. 060658-EI

Submitted for Filing: March 19, 2007

**PEF'S OBJECTIONS TO STAFF'S THIRD
REQUEST TO PRODUCE DOCUMENTS (Nos. 17-21)**

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 General Counsel's ("Staff's") Third Request to Produce Documents (Nos. 17-21) and states as follows:

GENERAL OBJECTIONS

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

With respect to the "Definitions" in Staff's Third Request to Produce 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 Staff'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 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 Third Request to Produce 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 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 Interrogatory or Request for Production that purports to require PEF or its experts to prepare studies, analyses, or to do work for Staff that has not been done for PEF, presumably at PEF's cost.

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 17: PEF objects to this request as irrelevant, immaterial, and not likely to lead to the discovery of admissible evidence. Subject to and without waiving these objections or any of PEF's general objections, PEF will produce PEF record retention policies related to this proceeding.

Request 18: PEF objects to this request as irrelevant, immaterial, and not likely to lead to the discovery of admissible evidence. Subject to and without waiving these objections or any of PEF's general objections, PEF will produce PFC record retention policies related to this proceeding.

Request 20: PEF objects to this request, in part, as overbroad, and calling for information that is irrelevant and not likely to lead to the discovery of admissible evidence. Specifically, PEF objects to the analyses for dates prior to 1996, since such analyses 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 information for 1996 through 2005.

Request 21: PEF objects to this request to the extent that the request asks for materials related to PFC's efforts for entities other than PEF.

Respectfully submitted,

John Burnett et

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of Progress Energy Florida, Inc.'s Objections to Staff's Third Request for Production (No. 17-21), in Docket No. 060658-EI has been furnished by regular U.S. mail to the following this 19 day of March, 2007.

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