

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

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

Docket No. 050078-EI  
Submitted for filing:  
June 13, 2005

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**PEF'S OBJECTIONS TO WHITE SPRINGS AGRICULTURAL CHEMICALS,  
INC. D/B/A PCS PHOSPHATE – WHITE SPRINGS' FIRST SET OF  
INTERROGATORIES (NO. 1)**

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 White Springs Agricultural Chemicals, Inc. d/b/a PCS Phosphate – White Springs' ("White Springs") First Set of Interrogatories (No. 1) and states as follows:

**GENERAL OBJECTIONS**

PEF must object to White Springs' First Set of Interrogatories, No. 1, to the extent that they are improper under the applicable rules and Order. With respect to the "Definitions and Instructions," PEF objects to any definitions or instructions that are inconsistent or in conflict with PEF's discovery obligations under applicable rules. PEF also objects to any definitions or instructions that attempt to impose discovery obligations on PEF beyond those called for under the applicable rules. If some question arises as to PEF's discovery obligations, PEF will comply with applicable rules and not with any of White Springs' definitions or instructions that are inconsistent with those rules. PEF also objects to White Springs' instruction requiring PEF to produce responsive documents to both White Springs' counsel of record and its experts or consultants. In accordance with

applicable discovery rules, PEF will only serve responses upon counsel for parties of record.

PEF objects to White Springs' definition "16" given that it includes "affiliates" in the definition of "Progress," and PEF objects to any definition or interrogatory 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 interrogatories will be made on behalf of persons or entities other than PEF. PEF also objects to White Springs' Instruction "2" given that PEF has no obligation under applicable rules to seek out or obtain information or documents from former employees.

PEF must also object to White Springs' 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 White Springs, 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 White Springs to create information or material that White Springs seeks in these interrogatories. 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.

Additionally, PEF generally objects to White Springs' interrogatories to the extent that they call for data or 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 upon investigation and analysis that information responsive to certain interrogatories 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 an interrogatory, 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 further notes that White Springs' instruction "13" suggests that PEF and White Springs have entered into a confidentiality agreement with each other, but PEF has not received a signed confidentiality agreement from White Springs as of the date of these objections.

PEF also objects to any interrogatory that calls for projected data or information beyond the year 2006 or prior to 2004 because such data or information is 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 an interrogatory does not specify a timeframe for which data or information is sought, PEF will interpret such interrogatory as calling only for data and information relevant to the years 2004-2006.

PEF objects to any attempt by White Springs to evade the numerical limitations set on interrogatories in the Order Establishing Procedure by asking multiple independent questions within single individual questions and subparts. PEF also objects to White

Springs' instruction "12," and PEF will provide discovery responses in the time frame set forth in the Order Establishing Procedure in this matter. Finally, PEF objects to White Springs' instruction "11," as there is no such obligation under the applicable rules or the Order Establishing Procedure. However, PEF will identify what witness provides particular answers in response to White Springs' interrogatories.

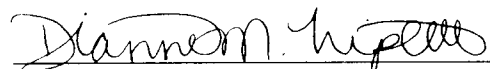
By making these general objections at this time, PEF does not waive or relinquish its right to assert additional general and specific objections to White Springs' discovery at the time PEF's response is due under the Florida Rules of Civil Procedure and the Order Establishing Procedure. PEF provides 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**

**Interrogatory 1:** Because this interrogatory refers to White Springs' request number 12, PEF adopts and incorporates any general or specific objections that it may make to request number 12 as if specifically stated herein. PEF further objects to part 1B of this interrogatory as vague and ambiguous, because PEF does not know the meaning of the term "quality of service improvements maintenance."

Respectfully submitted,

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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 13<sup>th</sup> day of June, 2005 to all counsel of record as indicated below.

  
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