

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

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

Docket No. 090079-EI
Submitted for filing: May 11, 2009

**PEF'S OBJECTIONS TO CITIZENS' FIFTH SET OF INTERROGATORIES TO
PROGRESS ENERGY FLORIDA, INC. (NOS. 177-208)**

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" or the "Company") hereby serves its objections to Office of Public Counsel's ("OPC" or "Citizens") Fifth Set of Interrogatories (Nos. 177-208) 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 any "Definitions" and "Instructions" in OPC's Interrogatories, 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 OPC's definitions or instructions that are inconsistent with those rules. 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. PEF also objects to Citizens' request that PEF provide documents in a specific electronic format. 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 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 (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 Citizens' Interrogatories 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 Interrogatories 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 2010 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 2006-2010.

By making these general objections at this time, PEF does not waive or relinquish its right to assert additional general and specific objections to Citizens’ 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.

SPECIFIC OBJECTIONS

Request 177: PEF objects to OPC’s interrogatory number 177(a) because it calls for PEF to provide a “detailed narrative” and the rules simply require an answer and not some subjective characterization of the answer. Further, all prior retirements are reflected in the depreciation study, thus PEF objects to subpart (f) of this interrogatory to the extent it is directed at information from work orders more than five years old because, as stated in 18 CFR section

125.3, the retention policy for work order sheets that may be necessary to respond to this subpart is five years after clearance to plant account, provided continuing plant inventory records are maintained. Otherwise the policy is to retain the records for five years after the plant is retired.

Request 178: PEF objects to OPC's interrogatory number 178, subparts (a) and (c) because they call for PEF to provide a "detailed narrative" and a "detailed identification" while the rules simply require an answer and not some subjective characterization of the answer. PEF objects to subpart (b) because it seeks the "major" items of retirement without defining what OPC would classify as a "major" item, thereby requiring PEF to answer regarding every retirement, which it is clear is not OPC's intention, or make a subjective classification that it is not required to make by the Rules or Order. Further, all prior retirements are reflected in the depreciation study, thus PEF objects to subparts (b) and (c) of this interrogatory to the extent they are directed at information from work orders more than five years old because, as stated in 18 CFR section 125.3, the retention policy for work order sheets that may be necessary to respond to these subparts is five years after clearance to plant account, provided continuing plant inventory records are maintained. Otherwise the policy is to retain the records for five years after the plant is retired.

Request 179: PEF objects to OPC's interrogatory number 179(a) because it calls for PEF to provide a "detailed narrative" and the rules simply require an answer and not some subjective characterization of the answer. PEF objects to subparts (b) and (c) because they seek the "major" items of retirement without defining what OPC would classify as a "major" item, thereby requiring PEF to answer regarding every retirement, which it is clear is not OPC's intention, or make a subjective classification that it is not required to make by the Rules or Order. Further, all prior retirements are reflected in the depreciation study, therefore PEF objects

to subparts (b) and (c) of this interrogatory to the extent they are directed at information from work orders more than five years old because, as stated in 18 CFR section 125.3, the retention policy for work order sheets that may be necessary to respond to these subparts is five years after clearance to plant account, provided continuing plant inventory records are maintained. Otherwise the policy is to retain the records for five years after the plant is retired.

Request 180: PEF objects to OPC's interrogatory number 180(a) because it calls for PEF to provide a "detailed narrative" and the rules simply require an answer and not some subjective characterization of the answer. PEF objects to subpart (b) because it seeks the "major" items of retirement without defining what OPC would classify as a "major" item, thereby requiring PEF to answer regarding every retirement, which it is clear is not OPC's intention, or make a subjective classification that it is not required to make by the Rules or Order. Further, all prior retirements are reflected in the depreciation study, therefore PEF objects to subpart (b) of this interrogatory to the extent it is directed at information from work orders more than five years old because, as stated in 18 CFR section 125.3, the retention policy for work order sheets that may be necessary to respond to this subpart is five years after clearance to plant account, provided continuing plant inventory records are maintained. Otherwise the policy is to retain the records for five years after the plant is retired.

Request 183: PEF objects to OPC's interrogatory number 183(a) because it calls for PEF to provide a "detailed narrative" and the rules simply require an answer and not some subjective characterization of the answer. PEF objects to subpart (b) because it seeks the "major" items of retirement without defining what OPC would classify as a "major" item, thereby requiring PEF to answer regarding every retirement, which it is clear is not OPC's intention, or make a subjective classification that it is not required to make by the Rules or Order. Further, all prior

retirements are reflected in the depreciation study, therefore PEF objects to subpart (b) of this interrogatory to the extent it is directed at information from work orders more than five years old because, as stated in 18 CFR section 125.3, the retention policy for work order sheets that may be necessary to respond to this subpart is five years after clearance to plant account, provided continuing plant inventory records are maintained. Otherwise the policy is to retain the records for five years after the plant is retired.

Request 184: PEF objects to OPC's interrogatory number 184(a) because it calls for PEF to provide a "detailed narrative" and the rules simply require an answer and not some subjective characterization of the answer. PEF objects to subparts (b) and (c) because they seek the "major" items of retirement without defining what OPC would classify as a "major" item, thereby requiring PEF to answer regarding every retirement, which it is clear is not OPC's intention, or make a subjective classification that it is not required to make by the Rules or Order. Further, all prior retirements are reflected in the depreciation study, therefore PEF objects to subpart (b) of this interrogatory to the extent it is directed at information from work orders more than five years old because, as stated in 18 CFR section 125.3, the retention policy for work order sheets that may be necessary to respond to this subpart is five years after clearance to plant account, provided continuing plant inventory records are maintained. Otherwise the policy is to retain the records for five years after the plant is retired.

Request 185: PEF objects to OPC's interrogatory number 185(a) because it calls for PEF to provide a "detailed narrative" and the rules simply require an answer and not some subjective characterization of the answer. PEF objects to subparts (b) and (c) because they seek the "major" items of retirement without defining what OPC would classify as a "major" item, thereby requiring PEF to answer regarding every retirement, which it is clear is not OPC's

intention, or make a subjective classification that it is not required to make by the Rules or Order. Further, all prior retirements are reflected in the depreciation study, therefore PEF objects to subparts (b) and (c) of this interrogatory to the extent they are directed at information from work orders more than five years old because, as stated in 18 CFR section 125.3, the retention policy for work order sheets that may be necessary to respond to these subparts is five years after clearance to plant account, provided continuing plant inventory records are maintained. Otherwise the policy is to retain the records for five years after the plant is retired.

Request 186: PEF objects to OPC's interrogatory number 186(a) because it calls for PEF to provide a "detailed narrative" and the rules simply require an answer and not some subjective characterization of the answer. PEF objects to subparts (b) and (c) because they seek the "major" items of retirement without defining what OPC would classify as a "major" item, thereby requiring PEF to answer regarding every retirement, which it is clear is not OPC's intention, or make a subjective classification that it is not required to make by the Rules or Order. Further, all prior retirements are reflected in the depreciation study, therefore PEF objects to subparts (b) and (c) of this interrogatory to the extent they are directed at information from work orders more than five years old because, as stated in 18 CFR section 125.3, the retention policy for work order sheets that may be necessary to respond to these subparts is five years after clearance to plant account, provided continuing plant inventory records are maintained. Otherwise the policy is to retain the records for five years after the plant is retired.

Request 187: PEF objects to OPC's interrogatory number 187(a) because it calls for PEF to provide a "detailed narrative" and the rules simply require an answer and not some subjective characterization of the answer. PEF objects to subpart (b) because it seeks the "major" items of retirement without defining what OPC would classify as a "major" item, thereby requiring PEF

to answer regarding every retirement, which it is clear is not OPC's intention, or make a subjective classification that it is not required to make by the Rules or Order. Further, all prior retirements are reflected in the depreciation study, therefore PEF objects to subpart (b) of this interrogatory to the extent it is directed at information from work orders more than five years old because, as stated in 18 CFR section 125.3, the retention policy for work order sheets that may be necessary to respond to these subparts is five years after clearance to plant account, provided continuing plant inventory records are maintained. Otherwise the policy is to retain the records for five years after the plant is retired.

Request 188: PEF objects to OPC's interrogatory number 188 because it calls for PEF to provide a "detailed narrative" and the rules simply require an answer and not some subjective characterization of the answer.

Request 191: PEF objects to OPC's interrogatory number 191 because it calls for PEF to provide a "detailed listing" and the rules simply require an answer and not some subjective characterization of the answer.

Request 192: PEF objects to OPC's interrogatory number 192 because it seeks information that is wholly irrelevant to this proceeding and that is not reasonably calculated to lead to the discovery of admissible evidence.

Request 197: PEF objects to OPC's interrogatory number 197 to the extent it is directed at information from work orders more than five years old because, as stated in 18 CFR section 125.3, the retention policy for work order sheets that may be necessary to respond to this interrogatory is five years after clearance to plant account, provided continuing plant inventory records are maintained. Otherwise the policy is to retain the records for five years after the plant is retired.

Request 199: PEF objects to OPC's interrogatory number 198 to the extent that it seeks to require PEF to provide responsive information in a specific electronic format, regardless of the format in which it exists. PEF will provide any responsive information in the format in which it is presently maintained.

Request 201: PEF objects to OPC's interrogatory number 201 to the extent that it seeks to require PEF to provide responsive information in a specific electronic format, regardless of the format in which it exists. PEF will provide any responsive information in the format in which it is presently maintained.

Request 203: PEF objects to OPC's interrogatory number 203 because it is overbroad, unduly burdensome, will lead to little or no relevant information, and it is not reasonably likely to lead to the discovery of admissible evidence. Burns & McDonnell is a large, multidiscipline engineering firm, that itself participated in over 100 construction projects last year alone. To ask it to comb through its voluminous records for responsive documents, of which there could literally be many thousands, would be the very definition of overly burdensome and would represent a tremendous waste of resources.

Request 204: PEF objects to OPC's interrogatory number 204 to the extent that it seeks information that PEF has already produced in response to OPC's Third Request for Production of Documents, number 120.

Request 205: PEF objects to OPC's interrogatory number 205 because it is overbroad, unduly burdensome, will lead to little or no relevant information, and it is not reasonably likely to lead to the discovery of admissible evidence. Burns & McDonnell is a large, multidiscipline engineering firm, that itself participated in over 100 construction projects last year alone. The details of the financial results of those projects are confidential, as the company is privately held,

and therefore those reports cannot be produced in this proceeding. However, as Burns & McDonnell has a record of bringing projects in at or under budget on a large percentage of its projects, the documents that would need to be produced in response to this request would be extremely voluminous, requiring many hours to compile, and would produce little to no relevant information. As such, PEF must object to this request.

Respectfully submitted,



James Michael Walls
mwalls@carltonfields.com
Florida Bar No. 0706242
Dianne M. Triplett
dtriplett@carltonfields.com
Florida Bar No. 0872431
Matthew Bernier
mbernier@carltonfields.com
Florida Bar No. 0059886
Carlton Fields
4221 W. Boy Scout Boulevard
P.O. Box 3239
Tampa, Florida 33607-5736
(813) 223-7000 / (813) 229-4133 (fax)

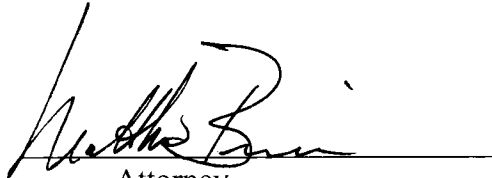
R. Alexander Glenn
alex.glenn@pgnmail.com
John T. Burnett
john.burnett@pgnmail.com
Progress Energy Service Company, LLC
299 First Avenue North
P.O.Box 14042 (33733)
St. Petersburg, Florida 33701
(727) 820-5184
(727) 820-5249(fax)

Paul Lewis, Jr.
Paul.lewisjr@pgnmail.com
Progress Energy Service Company, LLC
106 East College Avenue
Suite 800
Tallahassee, Florida 32301
(850) 222-8738 / (850) 222-9768 (fax)

Richard Melson
rick@rmelsonlaw.com
Florida Bar No. 0201243
705 Piedmont Drive
Tallahassee, FL 32312
(850) 894-1351

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been served via electronic and U.S. Mail to the following counsel of record as indicated below on this 11th day of May, 2009.


Attorney

Katherine Fleming
Staff Counsel
Florida Public Service Commission
2540 Shumard Oak Blvd
Tallahassee, FL 32399

J.R. Kelly/Charles Rehwinkle
Office of the Public Counsel
c/o The Florida Legislature
111 W. Madison Street – Room 812
Tallahassee, FL 32399-1400

Bill McCollum/Cecilia Bradley
Office of the Attorney General
The Capitol – PL01
Tallahassee, FL 32399-1050

Vicki G. Kaufman/Jon C. Moyle, Jr.
Keefe Law Firm, The Perkins House
118 North Gadsden Street
Tallahassee, FL 32301

James W. Brew/Alvin Taylor
Brickfield Law Firm
1025 Thomas Jefferson Street, NW, 8th Fl
Washington, D.C. 20007

R. Scheffel Wright / John T. LaVia
Young Law Firm
225 South Adams Street, Ste. 200
Tallahassee, FL 32301