

**Ruth Nettles**

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**From:** Tibbetts, Arlene [Arlene.Tibbetts@pgnmail.com]  
**Sent:** Tuesday, February 05, 2008 11:17 AM  
**To:** Filings@psc.state.fl.us  
**Cc:** Kelly.JR@leg.state.fl.us; mcglothlin.joseph@leg.state.fl.us; Lisa Bennett; Keino Young; mwalls@carltonfields.com; Triplett, Dianne  
**Subject:** Docket 070703 Filing: PEF Objections to OPC's 2nd Request for Production of Documents  
**Attachments:** Objections to 2nd Request for PODs (Nos. 14-24).pdf

This electronic filing is made by:

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Docket: 070703-EI

In re: Review of coal costs for Progress Energy Florida's Crystal River Units 4 and 5 for 2006 and 2007

On behalf of Progress Energy Florida

Consisting of 6 pages

The attached document for filing is PEF's Objections to OPC's Second Request for Production of Documents (Nos. 14-24)

<<Objections to 2nd Request for PODs (Nos. 14-24).pdf>>

2/5/2008

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COMMISSION CLERK

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

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In re: Review of coal costs for Progress  
Energy Florida's Crystal River Units 4  
and 5 for 2006 and 2007

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Docket No. 070703-EI

Submitted for Filing: February 5, 2008

**PEF'S OBJECTIONS TO OPC'S SECOND  
REQUEST TO PRODUCE DOCUMENTS (Nos. 14-24)**

Pursuant to Fla. Admin. Code R. 28-106.206 and Rule 1.350 of the Florida Rules of Civil Procedure, Progress Energy Florida, Inc. ("PEF") hereby serves its objections to the Office of Public Counsel's ("OPC's") Second Request to Produce Documents (Nos. 14-24) and states as follows:

**GENERAL OBJECTIONS**

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

PEF objects to any instructions that are inconsistent with PEF's discovery obligations under applicable rules. PEF will comply with applicable rules and not with any of OPC's instructions that are inconsistent with those rules.

With respect to the "Definitions" in OPC's Second 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 OPC's definitions or instructions that are

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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 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. 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 OPC's Second 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 OPC'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 OPC that has not been done for PEF, presumably at PEF's cost.

PEF objects to OPC's instructions that direct PEF to encompass responsive documents created on or after January 1, 2004 to the extent that such documents have no bearing or relevance on coal burned at CR 4 & 5 in 2006 and 2007.

By making these general objections at this time, PEF does not waive or relinquish its right to assert additional general and specific objections to OPC's discovery at the time PEF's response is due under the Florida Rules of Civil Procedure. PEF provides these general objections at this time to comply with the intent to reduce the delay in identifying and resolving any potential discovery disputes.

### **SPECIFIC OBJECTIONS**

**Request 15:** PEF objects to this request to the extent it requests documents and information regarding transportation contracts for coal deliveries to Crystal River for units other than Crystal River Units 4 and 5. Subject to and without waiving these objections or any of PEF's general objections, PEF will produce any responsive documents that deal with any such water route transportation contracts during 2006 and 2007 relating to Units 4 and 5 that have not been previously produced.

**Request 16:** PEF objects to this request to the extent it requests documents and information regarding barge unloading capabilities for coal delivered to Crystal River for units other than Crystal River Units 4 and 5. Subject to and without waiving these objections or any of PEF's general objections, PEF will produce any responsive documents that are relevant to barge unloading capabilities for coal delivered in 2006 and 2007 for CR 4&5, if any.

**Request 17:** PEF objects to this request to the extent it requests documents and information regarding barge unloading capabilities for coal delivered to Crystal River for units other than Crystal River Units 4 and 5. Subject to and without waiving these objections or any of PEF's general objections, PEF will produce any responsive documents that impact on barge unloading capabilities for coal delivered for CR 4&5 that was burned in 2006 and 2007, if any.

**Request 18:** PEF objects to this request to the extent that it requests information that is 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 responsive documents relative to barge unloading modifications for coal delivered to Units 4 and 5 that was burned in 2006 and 2007, if any.

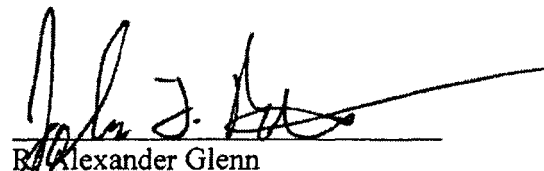
**Request 19:** PEF objects to this request to the extent it requests documents and information regarding coal deliveries made to Crystal River for units other than Crystal River Units 4 and 5. Subject to and without waiving these objections or any of PEF's general objections, PEF will produce any responsive documents that impact on barge unloading capabilities for coal delivered for CR 4&5 that was burned in 2006 and 2007, if any.

**Request 20(a):** PEF objects to this request to the extent it requests documents and information regarding coal deliveries made to Crystal River Units 4 and 5 for years other than 2006 and 2007. Subject to and without waiving these objections or any of PEF's general objections, PEF will produce any responsive documents that relate to the quantity of coal

delivered by barge for CR 4&5 in 2006 and 2007.

**Request 20(b)**: PEF objects to this request because it seeks information regarding coal delivered to Crystal River Units 1 and 2 that is wholly irrelevant to the issues in this case and has no bearing on this proceeding, nor is such information likely to lead to the discovery of admissible evidence.

**Request 21**: PEF objects to this request to the extent it requests documents and information regarding coal deliveries to Crystal River for units other than Crystal River Units 4 and 5. Subject to and without waiving these objections or any of PEF's general objections, PEF will produce any responsive documents that deal with maximum tonnage of coal that was delivered in 2006 and 2007 to be burned in Units 4 and 5.

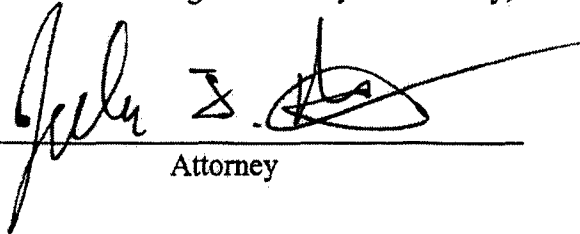


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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of Progress Energy Florida, Inc.'s Objections to Citizens Second Request for Production (Nos. 14-24), in Docket No. 070703-EI has been furnished by regular U.S. mail to the following this 5th day of February, 2008.

  
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