Marguerite McLean

From: O'Neal, Barbara [boneal@carltonfields.com]

Sent: Thursday, July 02, 2009 4:31 PM

To: Filings@psc.state.fl.us

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Subject: Electronic Filing Docket No. 090079-EI

Attachments: PEF Object to Citizens 9th Interrogatories.pdf

Matthew R. Bernier, Carlton Fields, P.A., 215 South Monroe Street, Ste. 500, Tallahassee, FL 32301, mbernier@carltonfields.com is the person responsible for this electronic filing;

The filing is to be made in Docket 090079-EI, In re: Petition for rate increase in rates by Progress Energy Florida, Inc.;

The total number of pages is 7;

The attached document is Progress Energy Florida's Objections to Citizens' Ninth Set of Interrogatories (Nos. 342-385).

Thank you.

CARLTON FIELDS
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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: June 30, 2009

PEF'S OBJECTIONS TO CITIZENS' NINTH SET OF INTERROGATORIES (NOS. 342-385)

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 Public Counsel's ("OPC" or "Citizens") Ninth Set of Interrogatories (Nos. 342-385) 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 OPC's 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 OPC's 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 OPC's 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 345: PEF objects to OPC's interrogatory number 345 to the extent it requests PEF to "explain in detail" because the rules require PEF to provide an answer and not some subjective characterization thereof.

Request 351: PEF objects to OPC's interrogatory number 351 to the extent that it seeks information from 2004 and 2005 (i.e. "each new officer and director for the Company since 2004," etc.) as that information is irrelevant, has no bearing on these proceedings, and is not reasonably calculated to lead to the discovery of admissible evidence.

Request 359: PEF objects to OPC's interrogatory number 351 to the extent that it seeks information from before 2004 (i.e. "for each of the last 35 years the storm costs incurred" by the Company) as that information is irrelevant, has no bearing on these proceedings, and is not reasonably calculated to lead to the discovery of admissible evidence. The information for 2004 and 2005 will be provided because it was relied on for the testimony referenced in this interrogatory. However, the reference in this testimony to a "1 in 35 year storm" does not reference Company specific information, rather it references general information regarding storm in the applicable area over the past 35 years.

Request 366: PEF objects to OPC's interrogatory number 366 to the extent that it seeks information from 2004 and 2005 (i.e. "average prices per ton" of coal) as that information is irrelevant, has no bearing on these proceedings, and is not reasonably calculated to lead to the discovery of admissible evidence.

Request 371: PEF objects to OPC's interrogatory number 371 to the extent that it seeks information from 2004 and 2005 (i.e. "average prices per barrel") as that information is irrelevant, has no bearing on these proceedings, and is not reasonably calculated to lead to the discovery of admissible evidence.

Request 372: PEF objects to OPC's interrogatory number 372 to the extent that it seeks information from 2004 and 2005 (i.e. "average unit cost") as that information is irrelevant, has

no bearing on these proceedings, and is not reasonably calculated to lead to the discovery of admissible evidence.

Request 373: PEF objects to OPC's interrogatory number 373 to the extent that it seeks information from 2004 and 2005 (i.e. "average inventory level") as that information is irrelevant, has no bearing on these proceedings, and is not reasonably calculated to lead to the discovery of admissible evidence.

Request 375: PEF objects to OPC's interrogatory number 375 to the extent it requests PEF to "explain in detail" because the rules require PEF to provide an answer and not some subjective characterization thereof.

Request 376: PEF objects to OPC's interrogatory number 376 to the extent it requests PEF to "explain in detail" because the rules require PEF to provide an answer and not some subjective characterization thereof.

Request 378: PEF objects to OPC's interrogatory number 378 to the extent that it seeks information from 2001 through 2005 (i.e. "amount expensed by the Company for Directors and Officers Liability Insurance") as that information is irrelevant, has no bearing on these proceedings, and is not reasonably calculated to lead to the discovery of admissible evidence.

Request 383: PEF objects to OPC's interrogatory number 383 to the extent it seeks to require PEF to "make the individual responsible for the functional budget available for discussion" as there is no requirement in the Rules or the Order requiring PEF to do so, and therefore that request is beyond the scope of discovery.

Request 384: PEF objects to OPC's interrogatory number 384 to the extent it seeks to require PEF to "make the individual responsible for the functional budget available for discussion" as there is no requirement in the Rules or the Order requiring PEF to do so, and

therefore that request is beyond the scope of discovery.

Requests 342-385: PEF objects to OPC's interrogatories numbers 342-385 because these interrogatories are in violation of the Order limiting each party to 500 interrogatories, including subparts.

Respectfully submitted,

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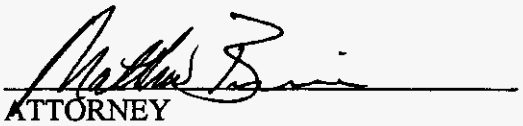
CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been served via electronic mail to the following counsel of record as indicated below on this 2nd day of July, 2009.



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