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Subject: Filing Docket 110009
Attachments: Docket 110009 PEF Objections to Staff 6th Interr No 25.pdf



Docket 110009
EF Objections t.

<<Docket 110009 PEF Objections to Staff 6th Interr No 25.pdf>> Docket

110009

In re: Nuclear Cost Recovery Clause

1. This filing is being made by

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2. This filing is being made in Docket 110009 and is Progress Energy Florida, Inc.'s General and Specific Objections to Staff's Sixth Set of Interrogatories (No. 25).
3. This filing is being made on behalf of Progress Energy Florida, Inc.
4. This filing consists of six (6) pages.

Thank you for your assistance in this regard.

DOCUMENT NUMBER-DATE

05370 AUG-1 =

FPSC-COMMISSION CLERK

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Nuclear Cost Recovery
Clause

Docket No. 110009-EI
Submitted for filing: August 1, 2011

**PROGRESS ENERGY FLORIDA, INC.'S GENERAL AND SPECIFIC OBJECTIONS
TO STAFF'S SIXTH SET OF INTERROGATORIES (NO. 25)**

Pursuant to Fla. Admin. Code R. 28-106.206, Rules 1.340, 1.350, and 1.280 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 the Florida Public Service Commission's Staff's ("Staff") Sixth Set of Interrogatories (No. 25) and states as follows:

GENERAL OBJECTIONS

If any interrogatory is to be answered by producing responsive documents pursuant to Rule 1.340(c), Fla. R. Civ. P., 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 Staff for purposes of inspection, copying, or handling of the responsive documents.

With respect to the "Definitions" in Staff's Sixth Set of Interrogatories, PEF objects to any definitions or instructions that are inconsistent with PEF's discovery obligations under applicable rules. If a question arises as to PEF's discovery obligations, PEF will comply with the applicable rules of the Florida Rules of Civil Procedure and of the Florida Public Service

Commission (“Commission”) and not with any definitions or instructions that are inconsistent with those rules.

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.

If any interrogatory is to be answered by producing responsive documents PEF objects to providing documents in a specific electronic format. Thus, PEF reserves the right to provide documents in electronic format at its discretion. Further, PEF objects to any interrogatory 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. PEF also objects to any interrogatory 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.

PEF objects to the instructions to the extent that no time period is provided. The prudence of the Company’s nuclear operations prior to January 1, 2009 (for the CR3 Uprate) and January 1, 2010 (for the LNP) has been reviewed by the Commission in previous dockets and those activities are not at issue in this docket. PEF will respond using those relevant time frames. PEF also objects to Staff’s interrogatories to the extent they request documents or information which have been previously produced to Staff as duplicative and overly burdensome to PEF to require it to make a duplicative production of documents or to duplicate previous narrative responses.

PEF generally objects to Staff’s interrogatories to the extent that they call for documents 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. 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 interrogatory calls for privileged or protected documents or information.

Further, in certain circumstances, PEF may determine upon investigation and analysis that documents or 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 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, Order No. PSC-11-0179-PCO-EI, issued March 29, 2011. 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 the interrogatories to the extent that they call for the production of “all” documents or information of any nature. PEF will make a good faith, reasonably diligent attempt to identify and obtain responsive information when no objection has been asserted, but it is not practicable or even possible to identify “all” documents or information. In addition, PEF reserves the right to supplement any of its responses to Staff’s interrogatories if PEF cannot produce documents or information immediately due to the magnitude and the work required to aggregate them, or if PEF later discovers additional responsive documents or information in the course of this proceeding.

PEF also objects to the interrogatories to the extent they are irrelevant and not reasonably calculated to lead to the discovery of admissible evidence pursuant to the Florida Rules of Civil Procedure.

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

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. PEF provides these 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. In addition, PEF provides the following specific objections.

SPECIFIC OBJECTIONS

Interrogatory No. 25:

PEF objects to Staff interrogatory number 25 because it is untimely pursuant to the Order Establishing Procedure in this docket. Pursuant to the Order Establishing Procedure, the last day for conducting discovery in this docket is Monday, August 1st. Staff's Sixth Set of Interrogatories was served on July 20, 2011. Under the Order Establishing Procedure, PEF has twenty (20) days to respond, making its responses due after the discovery cut off deadline of August 1st.

In addition, PEF objects to Interrogatory No. 25 because it calls for PEF to create documents that it otherwise does not have and requests PEF to prepare studies, analyses, or to do work that has not been done previously, presumably at PEF's cost. Such a request is overbroad and unduly burdensome and there is no such requirement under the applicable rules and law. The Florida Rules of Civil Procedure do not require PEF to perform work for a party that has not been performed by or for PEF previously.

Respectfully submitted this 1st day of August, 2011:

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY a true and correct copy of the foregoing has been furnished to counsel and parties of record as indicated below via electronic and U.S. Mail this 1st day of August, 2011.

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