

**Ruth Nettles**

090009-EI

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**Sent:** Monday, June 15, 2009 4:45 PM  
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**Subject:** Electronic Filing Docket No. 090006-EI  
**Attachments:** PEF Object to Citizens 4th Production.pdf

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

The filing is to be made in Docket 090009-EI, In re: Nuclear Cost Recovery Clause

The total number of pages is 5;

The attached document is Progress Energy Florida, Inc.'s Objections to Citizens' Fourth Request for Production of Documents (Nos. 65-74

Thank you.

**CARLTON FIELDS**  
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DOCUMENT NUMBER-DATE

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FPSC-COMMISSION CLERK

**BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

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IN RE: NUCLEAR COST  
RECOVERY CLAUSE

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Docket No. 090009-EI  
Submitted for filing: June 15, 2009

**PEF'S OBJECTIONS TO CITIZENS' FOURTH REQUEST FOR  
PRODUCTION OF DOCUMENTS (NOS. 65-74)**

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 Office of Public Counsel's ("OPC" or "Citizens") Fourth Request for Production of Documents (Nos. 65-74) 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 Requests for Production, 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 Citizens' Requests for Production 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 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.

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 70:** PEF objects to Citizens’ request number 70 which calls for PEF to produce “copies of all additional or supplemental filings made before the FPSC, relates to the recovery of nuclear costs by, or on behalf of PEF” during this proceeding, because the responsive documents have been filed with the Commission and are available from the Commission’s website, and are therefore publicly available for OPC to retrieve.

**Request 72:** PEF objects to Citizens’ request number 72 which calls for PEF to produce “copies of all PEF financial reports submitted to the FPSC” during this proceeding, because the responsive documents have been filed with the Commission and are available from the Commission’s website, and are therefore publicly available for OPC to retrieve.

Respectfully submitted,

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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 15<sup>th</sup> day of June, 2009.

  
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