ORIGINAL

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for Determination)
of Need of Hines Unit 4 Power   )   DOCKET NO. 040817-EI
Plant in Polk County by Progress)
Energy Florida Inc.   )   Submitted for filing: October 12, 2004

PROGRESS ENERGY FLORIDA'S THIRD REQUEST
FOR CONFIDENTIAL CLASSIFICATION

Progress Energy Florida ("PEF" or the "Company"), pursuant Section 366.093, Fla.

Stats., and Rule 25-22.006, F.A.C., requests confidential classification for its response to Staff's

First Set of Interrogatories, Interrogatory Number 17, and for PEF's responses to Staff's First

Request for Production of Documents, Requests 16 and 17. The unredacted responses and

documents are being filed under seal with the Commission on a confidential basis for the reasons

set forth below:

Basis for Confidential Classification

Subsection 366.093(1), Florida Statutes, provides that "any records received by the

Commission which are shown and found by the Commission to be proprietary confidential

business information shall be kept confidential and shall be exempt from [the Public Records

Act]." § 366.093(1), Fla. Stats. Proprietary confidential business information means

information that is (i) intended to be and is treated as private confidential information by the

Company, (ii) because disclosure of the information would cause harm, (iii) either to the

Company's ratepayers or the Company's business operation, and (iv) the information has not

been voluntarily disclosed to the public. § 366.093(3), Fla. Stats. Specifically, "information

concerning bids or other contractual data" the "disclosure of which would impair the efforts of

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the public utility or its affiliates to contract for goods or services on favorable terms" is defined as proprietary confidential business information. § 366.093(3)(d), Fla. Stats.

Responses to Interrogatory 17 and Document Requests 16 and 17

PEF's responses to Staff's Interrogatory Number 17 and Document Requests 16 and 17 should be afforded confidential treatment for the reasons set forth in the Affidavit of Pamela R. Murphy filed in support of PEF's Second Request for Confidential Classification and for the following reasons. Staff's Interrogatory Number 17 calls for information relating to PEF's negotiations with natural gas fuel suppliers. Staff's Document Requests 16 and 17 call for confidential documents detailing PEF's negotiations with potential fuel suppliers. PEF is requesting confidential classification of its responses because they contain details, facts, and documents regarding confidential negotiations between PEF and those potential fuel suppliers.

The purpose of PEF's negotiations with potential fuel suppliers is to obtain competitive proposals for fuel options that provide economic value to PEF and its ratepayers. (Affidavit of Pamela R. Murphy, ¶ 5). In order to obtain such proposals, however, PEF must be able to assure potential fuel suppliers that the terms of their proposals and negotiations will be kept confidential. Id. PEF has kept confidential and has not publicly disclosed the terms of proposals and negotiations between PEF and potential fuel suppliers. Id. at ¶ 6. Absent such measures, potential suppliers would run the risk that any sensitive business information that they provided in their negotiations and proposals to PEF would be made available to the public and, as a result, end up in possession of potential competitors. Id. at ¶ 5. Faced with that risk, potential suppliers might withhold such information altogether, denying PEF the ability to fully understand and accurately assess the cost and benefits of the suppliers' proposals and potential contracts with

those suppliers. Id. Or, persons or companies who otherwise would have submitted proposals and offers to PEF might decide not to do so if PEF did not keep the terms of their proposals confidential. Id. In either case, without PEF's measures to maintain the confidentiality of the terms of proposals and information provided to PEF in ongoing negotiations, the Company's efforts to obtain competitive fuel purchase contracts would be undermined. Id.

Upon receipt of the confidential proposals and information from potential fuel suppliers, strict procedures were established and followed to maintain the confidentiality of the terms of the documents and information provided, including restricting access to those persons who needed the information to assist the Company in its negotiations and its evaluation of the proposals and restricting the number of, and access to the information and proposals. Id. at ¶ 6. At no time since receiving the proposals and information has the Company publicly disclosed that information. Id. The Company has treated and continues to treat the information and documents at issue as confidential. Id.

Conclusion

The details, facts, and documents regarding confidential negotiations between PEF and potential fuel suppliers fit the statutory definition of proprietary confidential business information under Section 366.093 and Rule 25-22.006, F.A.C. Attachment A hereto contains a justification matrix supporting PEF's request for confidential classification of the highlighted information contained in Attachment A.

WHEREFORE, PEF respectfully requests that its response to Staff's Interrogatory Numbers 17, and its responses to Staff's First Request for Production of Documents, Requests 16 and 17 be classified as confidential for the reasons set forth above.

Respectfully submitted this ___12TH___ day of October, 2004.

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been served via e-mail and U.S. Mail to Wm. Cochran Keating, IV, Senior Attorney, Office of the General Counsel, Florida Public Service Commission, 2540 Shumard Oak Boulevard, Tallahassee, FL 32399-0850 and via U.S. Mail to all other interested parties as listed on the attachment this 12TH day of October, 2004.

_____
Attorney

Parties of Record and Interested Persons in Docket 040817

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Overland Park, KS 66211

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Tallahassee, FL 32399-2100

Buck Oven
Siting Coordination Office
Department of Environmental Protection (Siting)
2600 Blairstone Road
Tallahassee, FL 32301

ATTACHMENT A

DOCUMENTS	PAGE/LINE	JUSTIFICATION
PEF's Response to Staff's First Set of Interrogatories, Interrogatory No. 17	All words in the numbered list immediately following the first sentence.	§ 366.093(3)(d) PEF's response contains confidential details of PEF's negotiations with potential fuel suppliers, the disclosure of which would impair the utility's efforts to contract for such services on favorable terms.
PEF's Response to Staff's First Request for Production of Documents, Request No. 16 and 17	PEF 000237 "to" and "cc" column line immediately before signature block; PEF 000237 "to" and "cc": column line immediately above signature block; PEF 000240 first portion of fourth sentence under heading proposal; PEF 000241 "from", "to", "cc" and subject line, first paragraph second sentence all words between "A" and "gas", signature block; PEF 000242 heading at top of page, entire line in heading between the words "by" and "date", all text on the remainder of page prior to confidentiality notice except for subject matter headings names , in the confidentiality notice; PEF 000243 headings and all text after the subheadings all names in confidentiality notice;	§ 366.093(3)(d) PEF's responses contain confidential documents regarding and detailing PEF's negotiations with potential fuel suppliers, the disclosure of which would impair the utility's efforts to contract for such services on favorable terms.

	PEF 000244 headings and all text after subheadings, names in confidentiality notice; PEF 000245 heading and all text after subheadings, names in confidentiality notice; PEF 000246 heading and all text after subheadings, names in confidentiality notice; PEF 000247 heading and all text after subheadings, names in confidentiality notice; PEF 000248 "from," "cc," and subject lines, document title, names in text paragraph, all text in signature block; PEF 000249 letterhead, "re:" line, all text in the second sentence after the word "to", all words between the words "by" and "to" in second paragraph, name in signature block and footer notes on document; PEF 000250 RFP number, names in first heading paragraph, all terms and text after subheadings; PEF 000251 RFP number at top of page, all text after subheadings, PEF 000252 RFP number at top of page, all text after subheadings; PEF 000253 "to" and subject line, signature blocks; PEF 000254 "to," "cc" and subject	

line and signature block; PEF 000255 "to", subject line and signature blocks, PEF 000256 RFP number, names in subject line, all text after subheadings; PEF 000257 all text after subheadings through proposal headings, RFP number; PEF 000258 "from", "cc" and subject matter line, signature block; PEF 000259 letterhead, RFP description, all text in first sentence after words "is" and "response", all text in paragraph six between words "form" and "in", all names in signature block and footer at bottom of page; PEF 000260 heading and RFP description, description of parties, all terms after subheadings on remainder of page, all names from preliminary notional proposal footer paragraph; PEF 000261 all text after subparagraph, all names and preliminary notional proposal, footer paragraph at bottom of page; PEF 000262 all text after subparagraph, all names in preliminary notional proposal, footer paragraph at bottom of page;	

PEF 000263 all text after subparagraph, all names and preliminary notional proposal, footer paragraph at bottom of page; PEF 000264 all text after subparagraph, all names and preliminary notional proposal, footer paragraph at bottom of page; PEF 000266 "from" line, "cc" and subject line and all text in signature block; PEF 000265 all names in introductory paragraph, all names in recital paragraph, information on footer page; PEF 000267 all text after subheadings, information in footer; PEF 000268 all text after subheadings, information in footer; PEF 000269 all text after subheadings, information in footer; PEF 000270 all text after subheadings, information in footer; PEF 000271 all text after subheadings, information in footer; PEF 000272 all text after subheadings, information in footer; PEF 000273 all text after	

	subheadings, information in footer;

PEF 000274 all text after subheadings, information in footer;

PEF 000275 "from" line and subject line, document descriptions, all names included in first substantive paragraph, all names included in embedded e-mail at bottom of page;

PEF 000276 signature block information at top of page;

PEF 000277 all terms after subheadings and introduction;

PEF 000278 all terms after subheadings;

PEF 000279 all terms after subheadings and signature block;

PEF 000280 all terms after subheadings and names in introductory paragraph;

PEF 000281 all terms after subheadings;

PEF 000282 all terms on page;

PEF 000283 all terms after subheadings;

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	PEF 000286 "from" line, "cc" line and subject line, document names, all information in signature block line, all names in advisory,	
	PEF 000287 letterhead information at top of page, RFP identification and "re:" line, all words in second sentence between words "by" and "to", all names in first paragraph, all names in second paragraph, all text in third paragraph after word "completing";	
	PEF 000288 all words in first paragraph, all words in signature block;	
	PEF 000289 all names in introductory title, all text after subheadings;	
	PEF 000290 all text after subheadings, all names in final paragraph on that page;	
	PEF 000291 all information in two "cc" columns, names in subject line heading, names in introduction;	
	PEF 000292 all names in letterhead and "re:" line, all text after first paragraph;	
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	PEF 000324 from and subject line, all remaining information on page;	
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	PEF 000331 from and subject line, all document titles;	
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	signature block; PEF 000474 subject line and embedded e-mail subject line and text; PEF 000475 to line, subject line, document descriptions in all words after word "documents" on page; PEF 000476 signature blocks and names in notice paragraph; PEF 000477 all text after subheadings on page; PEF 000478 all text after subheadings on page; PEF 000479 all words after subheadings on page; PEF 000480 "from" and "cc" lines, all words after "Pam"; PEF 000481 "to" and subject lines, document descriptions, "to" and subject line in embedded e-mail and all text in embedded e-mail; PEF 000482 all information on page; PEF 000483 all names in "re:" line, all words after "and" in second sentence; PEF 000484 names in headings, of all information on page between header and words "Florida Power Corporation";	

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	PEF 000598 RFP identification, all names in subject paragraph, all information after subheadings;	
	PEF 000599 all information after subheadings "proposals;"	
	PEF 000600 "to," "cc" and signature block;	
	PEF 000601 "to" and "cc" lines, signature block;	
	PEF 000602 "to" and "cc" line, signature block;	
	PEF 000603 RFP identification, names in subject line, all information after subheadings;	
	PEF 000604 RFP identification in paragraph	

	under proposals;	
	PEF 000605 "to," "cc" and signature block;	
	PEF 000606 "to" and "cc" line, signature block;	
	PEF 000607 "to," "cc" and signature block;	
	PEF 000608 "to," "cc" and signature block;	
	PEF 000609 "to," cc" and signature block;	
	PEF 000610 "from," "cc," document names, name in first sentence and all information after first sentence;	
	PEF 000611 header and all words after introduction;	
	PEF 000612 header, all names in title and all information after subheadings;	
	PEF 000613 all information after subheadings;	
	PEF 000614 header and all information after introduction;	
	PEF 000615 header, all names in title and all information after subheadings;	
	PEF 000616 "from," "cc" and subject line, signature block;	
	PEF 000617 RFP identification in subject line, all information after subheadings;	

PEF 000618 all information after subheadings;

PEF 000619 "from" line, document identification name, all names in first paragraph, signature block, and "to" and "cc" line in embedded e-mail;

PEF 000620 header, name in "re:" line, all information after subheadings;

PEF 000621 all information after subheadings;

PEF 000622 all information after subheadings;

PEF 000623 subject line, document description, signature line, "from" and subject line in embedded e-mail and all text after word "John" in embedded e-mail;

PEF 000624 header, RFP identification and all words after "John" in introduction;

PEF 000625 all information after subheadings;

PEF 000626 RFP identification, subject line and all information after subheadings; "nominations" through "gas quality," RFP identification in subheadings proposal;

PEF 000628 "to" and subject line and document identification name;

	PEF 000629 "to" line and document identification name; PEF 000630 "to" line and document identification name; PEF 000631 "from," "cc" and subject line, signature line; PEF 000632 RFP identification and subject line, all information after subheadings; PEF 000633 all information after subheadings; PEF 000634 document identification and names in first paragraph and signature block; PEF 000635 header, RFP identification in "re:" line and all text after subheadings; PEF 000636 all text after subheadings; PEF 000637 all text after subheadings; PEF 000638 all information on page; PEF 000639 all information on page; PEF 000640 "from" and subject lines, names in first sentence, signature block; PEF 000641 header, RFP identification and all text after introduction;	

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