

ORIGINAL

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Progress Energy Florida, Inc.'s )  
petition for approval of storm cost ) Docket No.: 041272  
recovery clause for extraordinary )  
expenditures related to Hurricanes )  
Charley, Frances, Jeanne, and Ivan. ) Submitted for Filing: February 21, 2005  
\_\_\_\_\_ )

**PROGRESS ENERGY FLORIDA'S FIFTH 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 of certain exhibits attached to the deposition transcripts of Mark Vincent Wimberly and Javier Portuondo taken on January 24, 2005. Specifically, portions of the exhibits in question contain confidential information that should not be disclosed to the public. In support of this request, PEF states as follows:

**The Confidentiality of the Information at Issue**

Section 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, subsection 366.093(3)(c) defines "information relating to competitive interests, the disclosure of which

would impair the competitive business of the provider of the information,” as proprietary confidential business information.

The aforementioned exhibits to the deposition testimony of Mark Vincent Wimberly and Javier J. Portuondo should be afforded confidential treatment for the reasons set forth in the Affidavit of Javier Portuondo filed in support of PEF’s Fifth Request for Confidential Classification and for the following reasons. Portions of those exhibits contain proprietary confidential business information that is intended to be and is treated as private confidential information that has not been voluntarily disclosed to the public. See Affidavit of Javier Portuondo at 6. Specifically, the exhibits in question contain confidential information as follows:

1. Mark Vincent Wimberly Deposition Exhibit 1 bearing Bates Nos. PEF-SR-01752 and PEF-SR-01478; Mark Vincent Wimberly Deposition Exhibit 3 bearing Bates Nos. PEF-SR-01112 through PEF-SR-01157; Mark Vincent Wimberly Deposition Exhibit 5 bearing Bates No. PEF-SR-01260; Mark Vincent Wimberly Deposition Exhibit 7 bearing Bates No. PEF-SR-0331; Javier J. Portuondo Deposition Exhibit 1 bearing Bates Nos. PEF-SR-01752 and PEF-SR-01478; Javier J. Portuondo Deposition Exhibit 3 bearing Bates Nos. PEF-SR-01112 through PEF-SR-01157; Javier J. Portuondo Deposition Exhibit 4 bearing Bates No. PEF-SR-01260; Javier J. Portuondo Deposition Exhibit 5 bearing Bates No. PEF-SR-01260; and Javier J. Portuondo Deposition Exhibit 6 bearing Bates No. PEF-SR-0331, contain PEF’s projected and estimated business budgets and budget variance projections. This information is proprietary confidential business information that would impair PEF’s competitive business interests if it were disclosed to the public, to PEF’s suppliers, or to PEF’s competitors. Specifically, if PEF’s suppliers or competitors were made aware of PEF’s estimated budgets or budget variances, they may adjust

their behavior in the market place with respect to activity such as pricing and the acquisition and provision of goods, materials, and services. See Affidavit of Javier Portuondo at 5.

2. Mark Vincent Wimberly Deposition Exhibit 4 bearing Bates Nos. PEF-SR-01830 and PEF-SR-01836 contains PEF's proprietary and confidential Power Operations Group Business Plan for 2004-2008. This information would impair PEF's competitive business interests if it were disclosed to the public, to PEF's suppliers, or to PEF's competitors. Specifically, if PEF's confidential business plans were made available to PEF's suppliers or competitors, they may adjust their behavior in the market place with respect to activity such as pricing and the acquisition and provision of goods, materials, and services. See Affidavit of Javier Portuondo at 5.

### **Conclusion**

The competitive, confidential information at issue in this request fits the statutory definition of proprietary confidential business information under Section 366.093 and Rule 25-22.006, F.A.C. Separate sealed envelopes containing one copy of the confidential exhibits for which PEF intends to request confidential classification with the appropriate section, pages, or lines containing the confidential information highlighted is enclosed herewith as Attachment "A." **This information should be accorded confidential treatment pending a decision on PEF's request by the Florida Public Service Commission.**

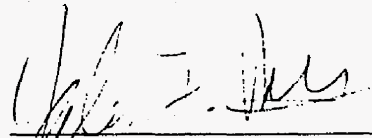
Additionally, two copies of the confidential exhibits with the information that PEF intends to request confidential classification redacted by section page, or lines, are also included herewith as Attachment "B."

Attachment "C" 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 the specified exhibits to the deposition testimony of Mark Vincent Wimberly and Javier J. Portuondo described specifically in Attachment C be classified as confidential for the reasons set forth above.

Respectfully submitted this 21<sup>st</sup> day of February, 2004.

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**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true copy of the foregoing has been furnished to the following individuals as indicated in the service list on this 21<sup>st</sup> day of February, 2005.

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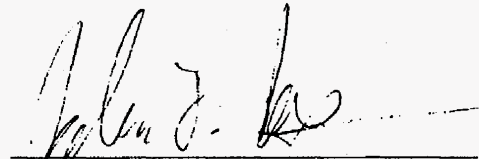
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