

# Hopping Green & Sams

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May 23, 2005

## **BY HAND DELIVERY**

Blanca Bayó  
Director Records and Reporting  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, FL 32399

Re: Docket No. 041393-EI  
**CONFIDENTIAL INFORMATION ENCLOSED**

Dear Ms. Bayó:

Enclosed for filing on behalf of Progress Energy Florida, Inc., (PEF) are the following:

(1) The original and fifteen copies of PEF's Request for Confidential Classification regarding the testimony and exhibits of Maurice Brubaker filed by White Springs Agricultural Chemicals, Inc., d/b/a PCS Phosphate – White Springs on May 13, 2005. (A diskette containing the Request in Word format is also included);

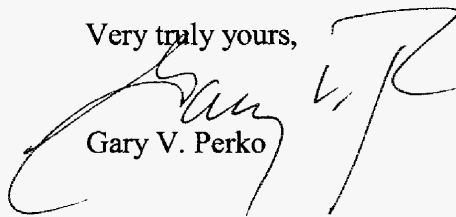
(2) Exhibit A, which identifies by page and line the information for which PEF seeks confidential treatment.

(3) A package containing Composite Exhibit B, which includes two redacted copies of the confidential documents; and

(4) A CONFIDENTIAL package containing Composite Exhibit C which includes one copy of the documents on which the confidential material has been highlighted.

Please stamp and return the enclosed extra copy of this filing. If you have any questions regarding this filing, please contact the undersigned.

Very truly yours,

  
Gary V. Perko

Enclosures

cc: certificate of service

DOCUMENT NUMBER-DATE

05000 MAY 23 05

**CERTIFICATE OF SERVICE**

I hereby certify that true and correct copies of Progress Energy Florida's Request for Confidential Classification have been provided by e-mail and by U.S. Mail, postage pre-paid, on May 23<sup>rd</sup>, 2005, to the following:

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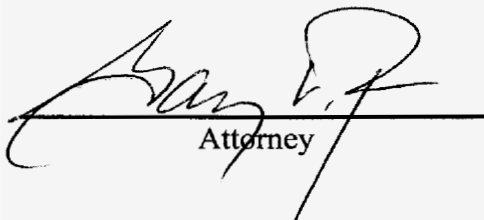
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\_\_\_\_\_  
Attorney

**BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

In re: Petition for approval of two unit power sales agreements with Southern Company Services, Inc. for purposes of cost recovery through capacity and fuel cost recovery clauses, by Progress Energy Florida, Inc.

DOCKET NO. 041393-EI

SERVED: May 23, 2005

**PROGRESS ENERGY FLORIDA'S  
REQUEST FOR CONFIDENTIAL CLASSIFICATION**

Progress Energy Florida, Inc., ("Progress Energy" or "PEF"), pursuant to Section 366.093, Florida Statutes (F.S.), and Rule 25-22.006, Florida Administrative Code, submits this Request For Confidential Classification of certain information provided in the direct testimony and exhibits of Maurice Brubaker on May 13, 2005, on behalf of White Springs Agricultural Chemicals, Inc., d/b/a PCS Phosphate – White Springs ("White Springs") In support of this Request, Progress Energy states:

1. On May 13, 2005, White Springs submitted the Direct Testimony and Exhibits of Maurice Brubaker. The testimony and some of the exhibits contain "proprietary business information" under Section 366.093(3), Florida Statutes, which Progress Energy provided to White Springs under a confidentiality agreement which required White Springs to maintain the confidentiality of the materials.

2. Also on May 13, 2005, White Springs filed a Notice of Intent to Request Confidential Classification ("Notice") of the confidential materials. PEF has since determined that some, but not all, of the information referenced in the Notice is not confidential. Accordingly, this Request does not include that material and the redacted and unredacted versions of Mr. Brubaker' testimony and exhibits submitted in Exhibits B and C with the Request have been updated from the versions originally submitted with White Spring's Notice.

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FPSC-COMMISSION CLERK

3. This formal Request for Confidential Classification is now being filed within the time period specified in Rule 25-22.006(3)(a), Florida Administrative Code.

4. The following exhibits are included with this request:

(a) Exhibit A is a table which identifies by page and line the information for which Progress seeks confidential classification and the specific statutory bases for seeking confidential treatment.

(b) Composite Exhibit B is a package containing two copies of redacted versions of the documents for which the Company requests confidential classification. The specific information for which confidential treatment is requested has been blocked out by opaque marker or other means.

(c) Composite Exhibit C is a package containing unredacted copies of all the documents for which Progress seeks confidential treatment. Composite Exhibit C is being submitted separately in a sealed envelope labeled "CONFIDENTIAL." In the unredacted versions, the information asserted to be confidential is highlighted in yellow.

5. The information identified in Exhibit A to this Request is "proprietary confidential business information" within the meaning of Section 366.093(3), F.S. The information includes the fixed costs associated with two Unit Power Sales (UPS) Agreements between PEF and Southern Company Services ("SCS") (Brubaker Testimony, p.15, line 9), as well as other contractual terms of the agreements (Brubaker Testimony, p.16, lines 22, 24, 25). Disclosure of cost information and contractual terms associated with the UPS agreements would provide potential power suppliers with knowledge of pricing that PEF has negotiated. This knowledge would give suppliers significant competitive advantage in future negotiations because they would no longer need to make their best offers to ensure the competitiveness of their proposals. Furthermore, without assurances that the confidential terms of contracts will not be

publicly disclosed, potential suppliers may be unwilling to contract with PEF. In either case, PEF's efforts to contract for goods and services on favorable terms would be impaired by disclosure of the information. As such, the information constitutes proprietary confidential information under § 366.093(3)(d), F.S.

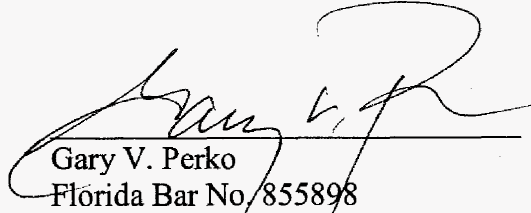
6. In addition, Mr. Brubaker's testimony also includes certain terms of a letter agreement negotiated between PEF and SCS relating to transmission service (Brubaker Testimony, p.26, lines 17-22), as well as copies of a draft and final letter agreement which include the same contractual terms (Brubaker Exh. No. MEB-4 ( ) p. 15, lines 1-9, and p. 38, lines 1-9). The contractual terms of the transmission letter (and its draft), if disclosed would provide potential competitors for transmission service with information that could be used to Progress Energy's disadvantage by revealing terms that Progress negotiated with the transmission provider. As such, disclosure of the information would impair Progress Energy's efforts to contract for goods and services on favorable terms. Furthermore, the information relates to the competitive interests of Progress Energy, its affiliates and Southern Company, the disclosure of which would impair their competitive businesses. *Id.* § 366.093(3)(e). Accordingly, such information is exempt from disclosure under the Public Records Act pursuant to Section 366.093(1), F.S.

7. The information identified in Exhibit A is intended to be and is treated as confidential by PEF. The information has not been disclosed to the public.

8. Progress Energy requests that the information identified in Exhibit A be classified as "proprietary confidential business information" within the meaning of section 366.093(3), F.S., that the information remain confidential for a period of at least 18 months as provided in section 366.093(4), F.S., and that the information be returned as soon as it is no longer necessary for the Commission to conduct its business.

WHEREFORE, for the foregoing reasons, Progress Energy Florida, respectfully requests that this Request for Confidential Classification be granted.

RESPECTFULLY SUBMITTED this 23<sup>rd</sup> day of May, 2005.



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Attorney for PROGRESS ENERGY FLORIDA

**EXHIBIT A**

**PROGRESS ENGERY FLORIDA  
Confidentiality Justification**

<b>Document Description</b>	<b>Page</b>	<b>Line No(s).</b>	<b>Column</b>	<b>Justification</b>
Direct Testimony of Maurice Brubaker - 5/13/05	15	9	N/A	§ 366.093(3)(d)(e)
Direct Testimony of Maurice Brubaker - 5/13/05	16	22, 24, 25	N/A	§ 366.093(3)(d)(e)
Direct Testimony of Maurice Brubaker - 5/13/05 -	26	17-22	N/A	§ 366.093(3)(d)(e)
Direct Testimony of Maurice Brubaker - 5/13/05 – Exhibit No. MEB-4 ( )  3/4/05 Draft Letter Agreement Concerning a Potential Transmission Service Agreement Between Florida Power Corporation and Southern Company Services, Inc., as agency for Alabama Power Company, Georgia Power Company, Gulf Power Company, Mississippi Power Company, and Savanah Electric Power Company	15 of Exhibit	1-9	N/A	§ 366.093(3)(d)(e)
Direct Testimony of Maurice Brubaker - 5/13/05 – Exhibit No. MEB-4 ( )  3/7/05 Final Letter Agreement Concerning a Potential Transmission Service Agreement Between Florida Power Corporation and Southern Company Services, Inc., as agency for Alabama Power Company, Georgia Power Company, Gulf Power Company, Mississippi Power Company, and Savanah Electric Power Company	38 of Exhibit	1-9	N/A	§ 366.093(3)(d)(e)