

ORIGINAL

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Petition on behalf of Citizens of)
the State of Florida to require)
Progress Energy Florida, Inc. to)
refund to customers \$143 million)
_____)

DOCKET NO. 060658-EI

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

Progress Energy Florida, Inc., ("PEF" or "Company"), pursuant to Section 366.093, Florida Statutes (F.S.), and Rule 25-22.006, Florida Administrative Code (F.A.C.), submits this Request for Confidential Classification for certain information provided in response to OPC's First Set of Interrogatories (Nos. 1-18) propounded on PEF. On December 6, 2006, PEF filed its Second Notice of Intent to Request Confidential Classification with respect to this information. PEF therefore files this Request for Confidential Classification within the twenty-one day period set out in Rule 25-22.006, F.A.C.

Specifically, portions of PEF's responses to Interrogatory No. 1(b)(1), portions of Attachment No. 1 responsive to Interrogatory No. 1(b)(2), and portions of Interrogatory 6 contain confidential

CMP _____ contractual operating agreements and pricing arrangements between PEF and third parties that would
COM _____
CTR _____ adversely impact PEF's competitive business interests if disclosed to the public. Accordingly, PEF
ECR 1 hereby submits the following:
GCL 1

Basis for Confidential Classification

RCA _____ Subsection 366.093(1), F.S., provides that "any records received by the Commission which
SCR _____ are shown and found by the Commission to be proprietary confidential business information shall be
SGA _____

SEC 1
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kept confidential and shall be exempt from [the Public Records Act].” §366.093(1), F.S. 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), F.S. Specifically, “information relating to competitive interests” is defined as proprietary confidential business information if the disclosure of such information “would impair the competitive business of the provider of the information.” §366.093(3)(e), F.S. Section 366.093(3)(d) further defines proprietary confidential business information as “information concerning bids or other contractual data, the disclosure of which would impair the efforts of the public utility or its affiliates to contract for goods or services on favorable terms.” §366.093(3)(d), F.S.

The aforementioned discovery sought by OPC should be afforded confidential treatment because portions of the responses contain proprietary confidential business information relating to PEF’s contractual arrangements. Public disclosure of the information in question would compromise PEF’s efforts to contract for goods and services on favorable terms.

OPC’s First Set of Interrogatories No. 1(b)(1)

Portions of PEF’s answer to OPC’s First Set of Interrogatories Number 1(b)(1) should be afforded confidential treatment for the reasons set forth in the Affidavit of Alexander Weintraub filed in support of PEF’s Request for Confidential Classification and for the following reasons. Portions of the answer to this Interrogatory include information contained in operating agreements that are held confidential. See Affidavit of Alexander Weintraub at ¶ 6. Specifically, PEF has contractual requirements with these third parties to not disclose the proprietary business information

contained in the operating agreements and, thereby, public disclosure of the information in question would be contrary to such confidentiality provisions and may impair PEF's efforts to contract favorably in future negotiation. Id. Specifically, PEF may not be able to favorably contract for the services offered by these third parties if such parties are not assured that all the information provided in connection with the operating agreements are kept confidential. Id.

OPC's First Set of Interrogatories No. 1(b)(2)

Portions of PEF's Attachment 1 in response to OPC's First Set of Interrogatories Number 1(b)(2) should be afforded confidential treatment for the reasons set forth in the Affidavit of Alexander Weintraub filed in support of PEF's Request for Confidential Classification and for the following reasons. Portions of the attachment to this Interrogatory include information contained in operating agreements that are held confidential. See Affidavit of Alexander Weintraub at ¶ 6. Specifically, PEF has contractual requirements with these third parties to not disclose the proprietary business information contained in the operating agreements and, thereby, public disclosure of the information in question would be contrary to such confidentiality provisions and may impair PEF's efforts to contract favorably in future negotiation. Id. Specifically, PEF may not be able to favorably contract for the services offered by these third parties if such parties are not assured that all the information provided in connection with the operating agreements are kept confidential. Id.

OPC's First Set of Interrogatories No. 6

Portions of PEF's responses to OPC's First Set of Interrogatories Number 6 should be afforded confidential treatment for the reasons set forth in the Affidavit of Alexander Weintraub filed in support of PEF's Request for Confidential Classification and for the following reasons. Specifically, the information at issue relates to competitively negotiated contractual data, such as

pricing and quantities of coal, the disclosure of which would impair the efforts of the Company or its affiliates to negotiate coal supply contracts on favorable terms. *See* § 366.093(3)(d), F.S.; Affidavit of Alexander Weintraub at ¶ 5. Furthermore, the information at issue relates to the competitive interests of PEF and its coal suppliers, the disclosure of which would impair their competitive businesses. *Id.* § 366.093(3)(e); Affidavit of Alexander Weintraub at ¶ 5. Accordingly, such information constitutes “proprietary confidential business information” which is exempt from disclosure under the Public Records Act pursuant to Section 366.093(1), F.S.

As indicated in Exhibit C, the information for which Progress Energy requests confidential classification is “proprietary confidential business information” within the meaning of Section 366.093(3), F.S. Specifically, the information at issue relates to competitively negotiated contractual data, such as pricing of coal, and other contractual terms, the disclosure of which would impair the efforts of the Company or its affiliates to negotiate coal supply contracts on favorable terms. *See* § 366.093(3)(d), F.S.; Affidavit of Alexander Weintraub at ¶ 5. If other third parties were made aware of confidential contractual terms that PEF has with other parties, they may offer PEF less competitive contractual terms in future contractual negotiations. See Affidavit of Alexander Weintraub at ¶ 5.

Strict procedures are established and followed to maintain the confidentiality of the terms of the confidential documents and information at issue, including restricting access to those persons who need the information and documents to assist the Company. See Affidavit of Alexander Weintraub at ¶ 7. At no time has the Company publicly disclosed the confidential information or documents at issue. Id. The Company has treated and continues to treat the information and documents at issue as confidential. Id.

Conclusion

These portions of PEF's responses to OPC First Set of Interrogatories fit the statutory definition of proprietary confidential business information under §366.093 and Rule 25-22.006, F.A.C., and that information should be afforded confidential classification. In support of this motion, PEF has enclosed the following:

(1) Exhibit A, a separate sealed envelope labeled "CONFIDENTIAL" containing one copy of the confidential documents for which PEF seeks confidential treatment, was previously filed on December 6, 2006 with PEF's Notice of Intent to Request Confidential Classification. In this unredacted version, the information asserted to be confidential is highlighted by yellow marker.

(2) Exhibit B is a package containing two copies of redacted versions of the documents for which confidential treatment is requested and has been blocked out by opaque marker or other means.

(3) Exhibit C is a justification matrix which identifies by page and line the information for which PEF seeks confidential classification and the specific statutory bases for seeking confidential treatment.

WHEREFORE, PEF respectfully requests that the answers to OPC's First Set of Interrogatories (Nos. 1-18), described specifically in Exhibit A, be classified as confidential for the reasons set forth above.

RESPECTFULLY SUBMITTED this 18th day of December, 2006.

John T. Burnett LMS

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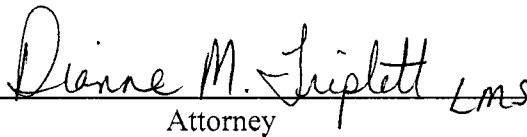
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of Progress Energy Florida, Inc.'s Request for Confidential Classification, in Docket No. 060658-EI has been furnished by regular U.S. mail to the following this 18th day of December, 2006.



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EXHIBIT A

(A separate sealed envelope labeled “confidential” was previously filed on December 6, 2006 with PEF’s Notice of Intent to Request Confidential Classification. The envelope contains one copy of the confidential documents for which PEF seeks confidential treatment)