

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

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In re: Review of coal costs for Progress
Energy Florida's Crystal River Units 4 and
5 for 2006 and 2007

Docket No. 070703-EI

COMMISSION
CLERK

Submitted for Filing: December 15, 2008

**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 Fourth Request for Production of Documents (Nos. 45-51) propounded on PEF. In support of this Request, PEF states:

In response to OPC's Fourth Request for Production of Documents, PEF will provide responses containing information that is "proprietary business information" under Section 366.093(3), Florida Statutes.

Responses to OPC's Request No. 46 contain confidential studies which concern proprietary business information and were prepared by third parties. PEF has a contractual obligation with these third parties to not disclose the proprietary business information contained in the studies. Disclosure of the confidential studies to the public, to PEF's suppliers, or to PEF's competitors would adversely impact PEF's competitive business and impair PEF's efforts

to contract for goods or services on favorable terms.

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Portions of responses to OPC's Request No. 50 contain confidential contractual pricing arrangements between PEF and third parties that would adversely impact PEF's competitive business interest if disclosed to the public. Accordingly, PEF hereby submits the following.

Basis for Confidential Classification

Subsection 366.093(1), F.S., 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), 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 to these requests for production contain information relating to PEF's competitive interests. Public disclosure of the information in question would compromise PEF's competitive business interests by disclosing sensitive contractual and business information.

As indicated in Exhibit C, the information for which PEF 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 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 Sasha Weintraub at ¶ 5. The information at issue also relates to confidential studies which concern proprietary business information and were prepared by third parties. *See* § 366.093(3)(d), F.S.; Affidavit of Sasha Weintraub at ¶ 6. 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 Sasha 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.

The information identified as Exhibit “A” is intended to be and is treated as confidential by the Company. *See* Affidavit of Sasha Weintraub at ¶ 7. The information has not been disclosed to the public, and the Company has treated and continues to treat the information and contracts at issue as confidential. *See* Affidavit of Sasha Weintraub at ¶ 7.

PEF 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..

Conclusion

Certain portions of the responses to the requests for production sought by OPC fit the statutory definition of proprietary confidential business information under Section 366.093, F.S. 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 exhibits with this request:

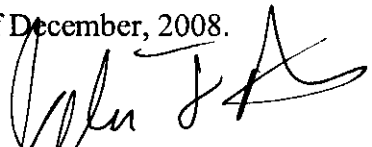
(a) Sealed Composite Exhibit A is a package containing unredacted copies of all the documents for which PEF seeks confidential treatment. Composite Exhibit A is being submitted separately in a sealed envelope labeled "CONFIDENTIAL." In the unredacted versions, the information asserted to be confidential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

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

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

Respectfully submitted this 15th day of December, 2008.



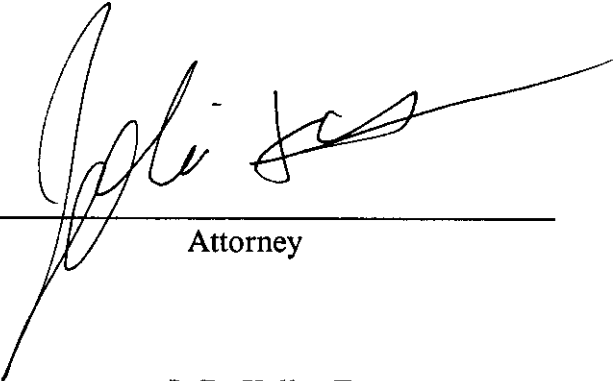
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Attorneys for
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of Progress Energy Florida, Inc.'s Request for Confidential Classification relating to responses to OPC's Fourth Request for Production of Documents in Docket No. 070703-EI has been furnished by regular U.S. mail to the following this 15th day of December, 2008.



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Public Service Commission

ACKNOWLEDGEMENT

DATE: December 15, 2008

TO: R. Alexander Glenn, Progress Energy

FROM: Ruth Nettles, Office of Commission Clerk

RE: Acknowledgement of Receipt of Confidential Filing

This will acknowledge receipt of a **CONFIDENTIAL DOCUMENT** filed in Docket Number 070703 or, if filed in an undocketed matter, concerning certain information provided in response to OPC's 4th Request for PODs, Nos. 45-51, and filed on behalf of Progress Energy. The document will be maintained in locked storage.

If you have any questions regarding this document, please contact Marguerite Lockard, Deputy Clerk, at (850) 413-6770.

DOCUMENT NUMBER - DATE

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