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-M-E-M-O-R-A-N-D-U-M-

DATE: February 22, 2010
TO: Katherine E. Fleming, Senior Attorney, Office of the General Counsel
FROM: Anne E. Marsh, ^{CEM} Economic Analyst, Division of Economic Regulation
RE: Docket No. 090079-EI - Progress Energy Florida, Inc. Confidentiality Request by PEF (Document No. 09204-09, x-ref 08432-09)

Progress Energy Florida, Inc. (PEF) has requested that the dollar amounts paid to individual consultants be kept confidential in its responses to Staff's Twenty-Second Set of Interrogatories No. 267 and Staff's Sixteenth Request for Production of Documents No. 100. (Document No. 09204-09, x-ref 08432-09).

PEF requests confidentiality under Subsection 366.093(3)(c), Florida Statutes (F.S.), which states:

(3) Proprietary confidential business information means information, regardless of form or characteristics, which is owned or controlled by the person or company, is intended to be and is treated by the person or company as private in that the disclosure of the information would cause harm to the ratepayers or the person's or company's business operations, and has not been disclosed unless disclosed pursuant to a statutory provision, an order of a court or administrative body, or private agreement that provides that the information will not be released to the public. Proprietary confidential business information includes, but is not limited to:

- (a) Trade secrets.
- (b) Internal auditing controls and reports of internal auditors.
- (c) Security measures, systems, or procedures.
- (d) 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.
- (e) Information relating to competitive interests, the disclosure of which would impair the competitive business of the provider of the information.
- (f) Employee personnel information unrelated to compensation, duties, qualifications, or responsibilities.

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Specifically, Section 366.093(3)(d), F.S. affords confidential treatment concerning bids or other contractual data. PEF's claim is that disclosure of pricing arrangements with third-party vendors would impair the Company's ability to contract for similar services in the future. PEF states that "[i]f vendors did not believe that PEF was able to protect their proprietary information, they would be less likely to contract with PEF for its use, or possibly would only enter into similar agreements at a premium price." PEF's claim is that the information is intended to be and is treated by PEF as private and has not been publicly disclosed.

Staff has reviewed PEF's confidentiality request. Staff believes the information for which confidential treatment is sought falls under the definition of proprietary confidential business information contained in Section 366.093(3)(d), F.S. staff believes the request for confidential treatment is reasonable and should be granted.

It should be noted that the request for confidentiality refers to Interrogatory No. 270, while the notice of intent filed on August 13, 2009 refers to Interrogatory No. 267. The confidential document contains Interrogatory No. 267.

~~cc: Office of Commission Clerk~~