

ORIGINAL

Marilyn Sanders

From: James A. McGee [jmcgee@lampabay-fl.com]
 Sent: Monday, May 17, 2004 8:42 AM
 To: Ellings@psc.state.fl.us
 Cc: Cochran, Keating, Vicki Gordon, Kaufman, Vandiver, Rob
 Subject: Docket No. 031057-EI Request for Confidential Classification

This electronic filing is made by
 James A. McGee
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Docket No. 031057-EI

In re: Review of Progress Energy Florida's
 benchmark for Waterborne Transportation
 Transactions with Progress Fuels.

On behalf of Progress Energy Florida.

Consisting of 6 pages.

The attached document for filing is Progress Energy's
Request for Confidential Classification,
 including a filing letter and a certificate of service.

- MP _____
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- TR _____
- CR 1
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- SEC 1
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Progress Energy

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JAMES A. MCGEE
ASSOCIATE GENERAL COUNSEL
PROGRESS ENERGY SERVICE COMPANY, LLC

May 17, 2004

VIA ELECTRONIC FILING

Ms. Blanca S. Bayó, Director
Division of the Commission Clerk
and Administrative Services
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850

Re: Docket No. 031057-EI; **Request for
Confidential Classification.**

Dear Ms. Bayó:

Enclosed for filing in the subject docket on behalf of Progress Energy Florida, Inc., is its Request for Confidential Classification. The document containing the information for which confidential classification is sought was highlighted and included with Progress Energy's Notice of Intent to Request Confidential Classification filed on April 29, 2004 in a separate sealed envelope. **This document should be held as Confidential Information in accordance with Rule 25-22.006, F.A.C.** A public version of the document, with the confidential information redacted, was attached to each filed copy of the Notice of Intent.

Please acknowledge your receipt of the above filing as provided in the Commission's electronic filing procedures. Thank you for your assistance in this matter.

Very truly yours,

s/ James A. McGee

JAM/scc
Enclosures

cc: Parties of record

DOCUMENT NUMBER-DATE

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05623 MAY 17 2004
FPSC-COMMISSION CLERK

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Review of Progress Energy
Florida's benchmark for Waterborne
Transportation Transactions with
Progress Fuels.

Docket No. 031057-EI

Submitted for filing:
May 17, 2004

REQUEST FOR CONFIDENTIAL CLASSIFICATION

Progress Energy Florida, Inc. (Progress Energy or the Company), pursuant to pursuant to Section 366.093, F.S., and Rule 25-22.006, F.A.C., hereby requests confidential classification of the highlighted information on page 1 of the Stipulation and Settlement between the parties in the above-captioned proceeding, a copy of which was contained in the sealed envelope enclosed with the Company's Notice of Intent to Request Confidential Classification filed on April 29, 2004. A public version of the Stipulation and Settlement, with the confidential information redacted, was attached to each filed copy of the Notice of Intent. In support hereof, Progress Energy states as follows:

Justification for Confidential Classification

1. Subsection 366.093(1), F.S., provides that any records "found by the commission to be proprietary confidential business information shall be kept confidential and shall be exempt from s. 119.07(1) [requiring disclosure under the Public Records Act]." Proprietary confidential business information includes, but is not limited to, "[i]nformation concerning . . . 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." Paragraph 366.093(3)(d), F.S. The

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designated portions of the Stipulation and Settlement fall within this statutory category and, thus, constitute proprietary confidential business information entitled to protection under Section 366.093 and Rule 25-22.006.

2. The highlighted information in the Stipulation and Settlement, if approved by the Commission as requested in the Joint Motion filed by the parties on April 29, 2004, identifies the rates for the transportation of waterborne coal deliveries to Progress Energy by Progress Fuels Corporation (PFC) in 2004. Disclosure of these waterborne transportation rates would provide a supplier of alternative rail transportation services direct knowledge of the transportation rates against which it must compete. This knowledge would give the supplier of rail transportation services a significant competitive advantage in upcoming contract renewal negotiations because the supplier would no longer need to make its best offer to ensure the competitiveness of its rates against the unknown rates of alternative transportation available to PFC. Instead, the supplier would simply offer the highest rates that allowed it to maintain a marginally competitive position against the known rates of PFC's alternative transportation. As a result, PFC and Progress Energy would incur higher fuel costs than if PFC's rail transportation supplier was not forearmed with this sensitive and competitively damaging information. Because these higher fuel costs would ultimately be borne by customers of Progress Energy through the fuel charge on their electric bills, disclosure of the waterborne transportation rates contained in the parties' Stipulation and Settlement would be contrary to, and in serious disregard of, the best interests of the Company's customers.

3. In addition, disclosure of these waterborne transportation rates, coupled with publicly available delivered prices of waterborne coal, could be used to calculate by simple subtraction the commodity price of the coal purchased for Progress Energy by PFC. This would give existing and potential coal suppliers a major competitive advantage in bidding for PFC's future coal purchases similar to the harmful advantage described above that disclosure would give a rail transportation supplier. Specifically, knowledge of the commodity price paid by PFC would allow these coal suppliers to avoid bidding their lowest price and, instead, simply undercut PFC's existing price. As a result, the customers of Progress Energy would pay higher fuel charges on their electric bills than if PFC's coal suppliers were not given the advantage of this sensitive and competitively valuable information. For this reason as well, disclosure of the waterborne transportation rates in the parties' Stipulation and Settlement would also be detrimental to the best interests of the Company's customers.

4. The highlighted waterborne transportation rates on page 1 of the Stipulation and Settlement provide the same or substantially similar competitively sensitive information as that contained (a) in Progress Energy's Form 423 monthly filings in the ongoing Fuel and Purchased Power Cost Recovery proceedings, which are consistently accorded confidential classification by the Commission, (b) in document DN 04144-03 for which confidential classification was granted by Order No. PSC-03-1298-CFO-EI, issued November 13, 2003 in Docket No. 030001-EI, and (c) in document DN 10626-03 for which confidential classification is pending pursuant to Progress Energy's request filed November 19, 2003 in Docket No. 030001-EI.

5. The designated information for which confidential classification is sought by this Request is intended to be and is treated by the Company as private and has not been publicly disclosed.

Duration of Confidential Classification

6. Progress Energy requests an 18-month confidentiality period, consistent with Rule 25-22.006 (9)(a), F.A.C. In addition, Progress Energy asks that the confidential version of the Stipulation and Settlement containing the highlighted information be returned to the Company when the Commission no longer needs the information to conduct its business, in accordance with Rule 25-22.006 (9)(b), F.A.C.

WHEREFORE, Progress Energy requests that the highlighted information on page 1 of the Stipulation and Settlement enclosed with the Company's April 29, 2004 Notice of Intent be accorded confidential classification for the reasons set forth above.

Respectfully submitted,

s/ James A. McGee

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Attorney for
PROGRESS ENERGY FLORIDA, INC.

PROGRESS ENERGY FLORIDA

DOCKET NO. 031057-EI

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true copy of the foregoing Request for Confidential Classification has been furnished to the following individuals by electronic mail this 17th day of May, 2004.

Wm. Cochran Keating, IV, Esquire
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Economic Regulation Section
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s/ James A. McGee
Attorney