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JAMES A. MCGEE  
ASSOCIATE GENERAL COUNSEL  
PROGRESS ENERGY SERVICE COMPANY, LLC  
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September 9, 2004

COMMISSION  
CLERK

VIA HAND DELIVERY

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. 040001-EI; Testimony and Exhibits of Samuel S. Waters;  
**Request for Confidential Classification.**

Dear Ms. Bayó:

Enclosed for filing in the subject docket on behalf of Progress Energy Florida, Inc., is an original and seven copies of its Request for Confidential Classification regarding the prepared testimony and exhibits of Samuel S. Waters filed this date under separate cover. Also enclosed is a sealed envelope containing the documents subject to the Request, with the confidential information highlighted. **These documents should be held as Confidential Information in accordance with Rule 25-22.006, F.A.C.** Two public versions of the documents, with the confidential information redacted, are also enclosed with the Request.

Please acknowledge your receipt of the above filing on the enclosed copy of this letter and return to the undersigned. A 3 1/2 inch diskette containing the above-referenced Request in Word format is also enclosed. Thank you for your assistance in this matter.

Very truly yours,

James A. McGee

- CMP \_\_\_\_\_
- COM \_\_\_\_\_
- CTR \_\_\_\_\_
- ECR   1
- GCL   1
- OPC \_\_\_\_\_
- MMS \_\_\_\_\_ JAM/scc
- RCA \_\_\_\_\_ Enclosures
- SCR \_\_\_\_\_ cc: Parties of record
- SEC   1
- OTH   1   *conf records*

RECEIVED & FILED

FPSC-BUREAU OF RECORDS *Request*  
DOCUMENT NUMBER-DATE

09898 SEP -9 04

FPSC-COMMISSION CLERK

*Redacted*  
DOCUMENT NUMBER-DATE  
09900 SEP -9 04  
FPSC-COMMISSION CLERK

*Confidential*  
DOCUMENT NUMBER-DATE  
09899 SEP -9 04  
FPSC-COMMISSION CLERK

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

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In re: Fuel and Purchased Power Cost  
Recovery Clause and Generating  
Performance Incentive Factor.

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Docket No. 040001-EI

Submitted for filing:  
September 9, 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 in the direct testimony and exhibits of Samuel S. Waters filed this date in the subject docket regarding a Tolling Agreement between the Company and Shady Hills Power Company, L.L.C. (the Shady Hills Agreement), and a Letter of Intent between the Company and Southern Company Services, Inc. to extend an existing Unit Power Sales Agreement (the Southern LOI) (collectively, the Waters Testimony and Exhibits). The Waters Testimony and Exhibits are enclosed with this Request in a separate sealed envelope, with the information for which Progress Energy seeks confidential classification highlighted. Two public copies of the Waters Testimony and Exhibits, with the confidential information redacted, are also enclosed with this Request. 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

DOCUMENT NUMBER - DATE

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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” (subsection 366.093(3)(d)), and “[i]nformation relating to competitive interests, the disclosure of which would impair the competitive business of the provider of the information” (subsection 366.093(3)(e)). The designated portions of the Waters Testimony and Exhibits fall within these statutory categories and, thus, constitute proprietary confidential business information entitled to protection under Section 366.093 and Rule 25-22.006.

2. Specifically, with respect to the Shady Hills Agreement, the highlighted information on (a) pages 4 and 5 of Mr. Waters’ direct testimony, (b) pages 21, 22, 47 – 51 and 65 of Exhibit SSW-1, the Agreement itself, and (c) Exhibit SSW-3, a one-page summary of the Agreement’s costs and benefits, identifies contractual prices or pricing terms and provisions used to determine payments made pursuant to the Agreement. Disclosure of this information would provide Progress Energy’s existing and potential wholesale power suppliers with a significant competitive advantage in bidding or negotiating for the Company’s future power purchases. Because of this competitive advantage, these suppliers would be able to avoid offering their lowest price and instead simply undercut the Company’s existing price. As a result, Progress Energy and ultimately its

customers would incur higher purchased power costs than if the Company's suppliers were not forearmed with this competitively sensitive and valuable information.

3. The highlighted information on pages 12, 13, 39, 40 and 55 of Exhibit SSW-1 identifies sensitive contractual terms and specifications negotiated by Progress Energy for the power to be purchased pursuant to the Shady Hills Agreement, in addition to the pricing information described in paragraph 2 above. Disclosure of these contractual terms and specifications would be detrimental to Progress Energy and its customers in two ways. First, disclosure would place the Company at a competitive disadvantage in future negotiations with potential suppliers of purchased power who would use the most advantageous of these terms and specifications as the beginning point, or floor, of their bargaining position and the least advantageous terms and specifications as their ceiling, knowing in either case that they had been previously accepted by the Company. Second, existing and potential power suppliers would be less willing, or unwilling, to offer Progress Energy special or unique concessions on contractual terms and specification if they were aware that such concessions may be disclosed to other potential purchasers who would then demand similar concessions. Either or both of these situations would impair Progress Energy's efforts to contract for goods and services on favorable terms, to the detriment of its customers in the form of higher purchased power costs.

4. With respect to the Southern LOI, the highlighted information on (a) pages 5 and 6 of Mr. Waters' direct testimony, (b) pages 4 - 6, 10 and 11 of the LOI, Exhibit SSW-2, regarding Unit Availability, Capacity Charge, Guaranteed Heat Rate, Variable O&M, and Startup Charges, and (c) Exhibit SSW-4, a one-page summary of the Southern LOI's costs and benefits, identifies contractual prices or pricing terms and provisions used to determine payments made pursuant to the LOI. Disclosure of this information would provide Progress Energy's existing and potential wholesale power suppliers with a significant competitive advantage in bidding or negotiating for the Company's future power purchases. Because of this competitive advantage, these suppliers would be able to avoid offering their lowest price and instead simply undercut the Company's existing price. As a result, Progress Energy and ultimately its customers would incur higher purchased power costs than if the Company's suppliers were not forearmed with this competitively sensitive and valuable information.

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 Waters Testimony and Exhibits 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 in the Waters Testimony and Exhibits attached hereto be accorded confidential classification for the reasons set forth above.

Respectfully submitted,



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Attorney for  
PROGRESS ENERGY FLORIDA, INC.

**PROGRESS ENERGY FLORIDA**

**DOCKET NO. 040001-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 regular U.S. Mail the 9<sup>th</sup> day of September, 2004.

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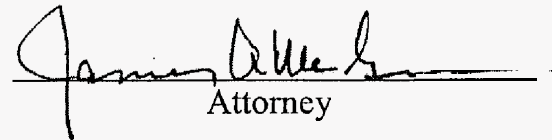
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