

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Progress Energy Florida, Inc.'s)
petition for approval of long-term fuel) Docket No.: 041414-EI
supply and transportation contracts for)
Hines Unit 4 and additional system)
supply and transportation.) Submitted for Filing: March 1, 2005

**PROGRESS ENERGY FLORIDA'S THIRD REQUEST
FOR CONFIDENTIAL CLASSIFICATION**

Progress Energy Florida ("PEF" or the "Company"), pursuant to Section 366.093, Fla. Stats., and Rule 25-22.006, F.A.C., files this Request for Confidential Classification of PEF's responses to Commission Staff's Second Request for Production of Documents to Progress Energy Florida, Inc. (Nos. 5-6). PEF's responses to Staff's Request for Production, Request 6, contain copies of documents that contain confidential information regarding contracts between PEF and fuel suppliers. Accordingly, PEF hereby submits the following.

Basis for Confidential Classification

Subsection 366.093(1), Florida Statutes, 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), Fla. Stats. 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), Fla. Stats. Specifically, "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” is defined as proprietary confidential business information. § 366.093(3)(d), Fla. Stats.

Responses to Staff’s Document Request 6

Portions of PEF’s responses to Staff’s Document Request 6 should be afforded confidential treatment for the reasons set forth in the Affidavit of Pamela R. Murphy filed in support of PEF’s Third Request for Confidential Classification and for the following reasons. Staff’s Document Request 6 calls for confidential contracts between PEF and potential fuel suppliers. PEF is requesting confidential classification of its responses because public disclosure of the documents and information in question would violate the confidentiality provisions contained in those contracts and would impair PEF’s ability to contract for services such as fuel supply on competitive and favorable terms.

PEF negotiates with potential fuel suppliers and transportation companies to obtain competitive contracts for fuel options that provide economic value to PEF and its ratepayers. (Affidavit of Pam Murphy at ¶5). In order to obtain such contracts, however, PEF must be able to assure fuel suppliers and transportation companies that sensitive business information, such as the quantity and pricing terms of their contracts, will be kept confidential. Id. In fact, the two contracts at issue in this request contain specific confidentiality clauses regarding the terms and provisions of those contracts. Id. PEF has kept confidential and has not publicly disclosed the confidential contract terms or provisions. Id. Absent such measures, suppliers and transportation companies would run the risk that sensitive business information that they provided in their contracts with PEF would be made available to the public and, as a result, end up in possession of potential competitors. Id. Faced with that risk, persons or companies who otherwise would contract with PEF might decide not to do so if PEF did not keep those terms of their contracts

confidential. *Id.* Without PEF's measures to maintain the confidentiality of sensitive terms in contracts between PEF and fuel suppliers and transportation contractors, the Company's efforts to obtain competitive fuel supply and transportation contracts would be undermined. *Id.*

Additionally, the disclosure of confidential information in PEF's fuel supply and transportation contracts would adversely impact PEF's competitive business interests. (Affidavit of Pam Murphy at ¶6). If such information was disclosed to PEF's competitors, PEF's efforts to obtain competitive fuel supply and transportation options that provide economic value to both PEF and its ratepayers would be compromised. *Id.*

Upon receipt of confidential information from fuel suppliers and transportation companies, and with its own confidential information, strict procedures are established and followed to maintain the confidentiality of the terms of the documents and information provided, including restricting access to those persons who need the information to assist the Company, and restricting the number of, and access to the information and contracts. (Affidavit of Pam Murphy at ¶7). At no time since receiving the contracts and information in question has the Company publicly disclosed that information or contracts. *Id.* The Company has treated and continues to treat the information and contracts at issue as confidential. *Id.*

Conclusion

The details, facts, and documents regarding PEF's contracts with potential fuel suppliers fit the statutory definition of proprietary confidential business information under Section 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). A separate, sealed envelope containing one copy of the confidential Appendix A to PEF's Request for Confidential Classification for which PEF intends to request confidential

classification with the appropriate section, pages, or lines containing the confidential information highlighted. **This information should be accorded confidential treatment pending a decision on PEF's request by the Florida Public Service Commission;**

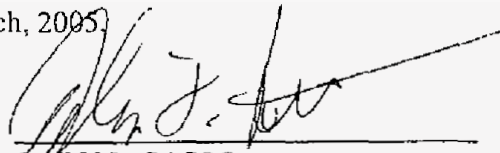
(2). Two copies of the confidential responses with the information for which PEF intends to request confidential classification redacted by section, page, or lines where appropriate as Appendix B; and

(3). A justification matrix supporting PEF's request for confidential classification of the highlighted information contained in confidential Appendix A, as Appendix C.

WHEREFORE, PEF respectfully requests that portions of its responses to Staff's Second Request for Production of Documents, Requests 5-6, be classified as confidential for the reasons set forth above.

Respectfully submitted this 1st day of March, 2005.

R. ALEXANDER GLENN
Deputy General Counsel -- Florida
PROGRESS ENERGY SERVICE
COMPANY, LLC
100 Central Avenue, Ste. 1D
St. Petersburg, FL 33701
Telephone: (727) 820-5587
Facsimile: (727) 820-5519



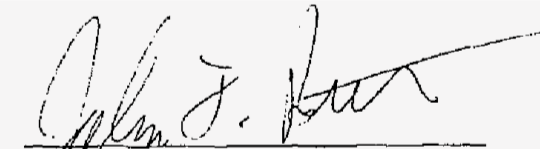
GARY L. SASSO
Florida Bar No. 622575
JAMES MICHAEL WALLS
Florida Bar No. 0706272
JOHN T. BURNETT
Florida Bar No. 173304
CARLTON FIELDS, P.A.
Post Office Box 3239
Tampa, FL 33601-3239
Telephone: (813) 223-7000
Facsimile: (813) 229-4133

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true copy of the foregoing has been furnished to the following individuals as indicated in the service list on this 15th day of March, 2005.

Via electronic and U.S. Mail
Adrienne E. Vining, Esquire
Office of the General Counsel
Florida Public Service Commission
2540 Shumard Oak Blvd.
Tallahassee, FL 32399-0850

Via Electronic and U.S. Mail
Patricia A. Christensen, Esquire
Office of the Public Counsel
c/o The Florida Legislature
111 West Madison St., Room 812
Tallahassee, FL 32399-1400



Attorney