

ORIGINAL

RECEIVED-TPSC

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

APR 15 PM 1:48

In re: Progress Energy Florida, Inc.'s)
petition for approval of long-term fuel)
supply and transportation contracts for)
Hines Unit 4 and additional system)
supply and transportation.)

Docket No.: 041414-EI

COMMISSION
CLERK

Submitted for Filing: April 14, 2005

**PROGRESS ENERGY FLORIDA'S FIFTH 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 Fifth Set of Interrogatories to Progress Energy Florida, Inc. (Nos. 148-164). Portions of PEF's responses to Staff's Interrogatories Numbers 149, 150, 151, 154, and 162 contain confidential information regarding contracts, bids, and proposals 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

CMP _____
COM _____
CTR _____
ECR | _____
GCL | _____
OPC _____
MMS _____
RCA _____
SCR _____
SEC | _____
OTH | *conf records*

TPA#1981541.6

DOCUMENT NUMBER-DATE

03692 APR 15 05

FPSC-COMMISSION CLERK

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 Interrogatories Numbers 149, 150, 151, 154, and 162

Portions of PEF’s responses to Staff’s Interrogatories Numbers 149, 150, 151, 154, and 162 should be afforded confidential treatment for the reasons set forth in the Affidavit of Pamela R. Murphy filed in support of PEF’s Fifth Request for Confidential Classification and for the following reasons. Staff’s Interrogatories Numbers 149, 150, 151, 154, and 162, call for information relating to confidential contracts and proposals between PEF and potential fuel suppliers, as well as PEF’s analysis of those contracts and proposals. PEF is requesting confidential classification of its responses because public disclosure of the information in question would violate confidentiality agreements between PEF and fuel suppliers 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. PEF has kept confidential and has not publicly disclosed the confidential contract terms and provisions at issue here. 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 and facts 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;**

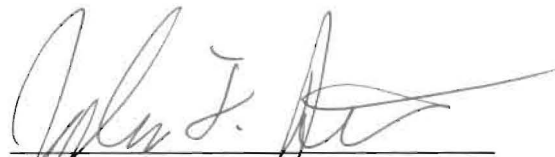
(2). Two copies of the confidential responses with the information for which PEF intends to request confidential classification redacted by section, page, or lines where appropriate as Appendix B; and

(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 Interrogatories Numbers 149, 150, 151, 154, and 162 be classified as confidential for the reasons set forth above.

Respectfully submitted this 14th day of April, 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

ATTACHMENT C

DOCUMENTS	PAGE/LINE	JUSTIFICATION
Interrogatory Number 149	All tables, all charts, and all numbers, excluding headers.	<p>§366.093(3)(e), Fla. Stat.</p> <p>The information in question relates to PEF’s competitive interests, the disclosure of which would impair PEF’s competitive business interests.</p> <p>§366.09(3)(d), Fla. Stat.</p> <p>The information in question concerns contractual data, the disclosure of which would impair PEF’s efforts to contract for goods or services on favorable terms.</p>
Interrogatory Number 150	All tables, all charts, and all numbers, excluding headers.	<p>§366.093(3)(e), Fla. Stat.</p> <p>The information in question relates to PEF’s competitive interests, the disclosure of which would impair PEF’s competitive business interests.</p> <p>§366.09(3)(d), Fla. Stat.</p> <p>The information in question concerns contractual data, the disclosure of which would impair PEF’s efforts to contract for goods or services on favorable terms.</p>
Interrogatory Number 151	<p>All the words after “(FGT) resulted,” and before “refer to the assumptions.”</p> <p>The word after “Cypress and,” and before “alternatives.”</p> <p>The word after “Cypress and,”</p>	<p>§366.093(3)(e), Fla. Stat.</p> <p>The information in question relates to PEF’s competitive interests, the disclosure of which would impair PEF’s competitive business interests.</p>

	<p>and before “alternatives.”</p> <p>The words after “percentages and,” and before “for Cypress.”</p> <p>The word after “rates for the,” and before “alternative.”</p> <p>The word after “(Cypress,” and before “and.”</p> <p>The word after “and,” and before “This date assumes.”</p> <p>All tables, all charts, and all numbers, excluding headers.</p> <p>The words after “SNG and FGT,” and before “variable charge rates.”</p> <p>After “regarding the,” and before “alternative.”</p> <p>In footnote 1, the numbers after the words “rate of,” and before “plus estimated.”</p> <p>In footnote 2, the numbers after the words “rate of,” and before “plus estimated.”</p> <p>In footnote 3, the word after “derived given,” and before “requirement for.”</p> <p>In footnote 3, the number after “requirement for,” and before “of annual.”</p> <p>In footnote 3, the words after “pipeline transportation,” and before “and seasonal.”</p>	<p>§366.09(3)(d), Fla. Stat.</p> <p>The information in question concerns contractual data, the disclosure of which would impair PEF’s efforts to contract for goods or services on favorable terms.</p>
--	--	---

	<p>In footnote 4, the words after “Reflects,” and before “negotiated with.”</p> <p>The words after “capital cost,” and before “(for Cypress).”</p> <p>The words after “(for Cypress),” and before “and.”</p> <p>The words after “and,” and before “were willing.”</p> <p>The words after “the estimated,” and before “of required.”</p> <p>The words after “for Cypress,” and before “was initially willing.”</p> <p>The number after “absorb the,” and before “cost associated.”</p> <p>The words after “associated with the,” and before “but later increases.”</p> <p>The words after “to include the,” and before the “that resulted in.”</p> <p>The words after “to fund the,” and before “proposed to absorb.”</p> <p>The number after “to absorb,” and before “of cost associated.”</p> <p>The number after “having to fund,” and before “of cost.”</p> <p>The word after “of cost,” and</p>	
--	---	--

	<p>before “proposed to.”</p> <p>The number after “to absorb the,” and before “cost of the.”</p> <p>The words after “cost of the,” and before “resulting in PEF.”</p> <p>The words after “having to fund,” and before the start of the next paragraph.”</p> <p>The number after “alternative reflects a,” and before “Dth basis.”</p> <p>The words after “negotiated with,” and before “;and.”</p> <p>The word after “The,” and before “alternative reflects.”</p>	
<p>Interrogatory Number 154</p>	<p>The number after “which will be,” and before “summer.”</p> <p>The number after “(May through September,) and before “winter.”</p>	<p>§366.093(3)(e), Fla. Stat.</p> <p>The information in question relates to PEF’s competitive interests, the disclosure of which would impair PEF’s competitive business interests</p> <p>§366.09(3)(d), Fla. Stat.</p> <p>The information in question concerns contractual data, the disclosure of which would impair PEF’s efforts to contract for goods or services on favorable terms.</p>

<p>Interrogatory Number 162</p>	<p>All the words after “deal is as follows:”</p>	<p>§366.093(3)(e), Fla. Stat.</p> <p>The information in question relates to PEF’s competitive interests, the disclosure of which would impair PEF’s competitive business interests</p> <p>§366.09(3)(d), Fla. Stat.</p> <p>The information in question concerns contractual data, the disclosure of which would impair PEF’s efforts to contract for goods or services on favorable terms.</p>
---------------------------------	--	--