

ORIGINAL

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Progress Energy Florida, Inc.'s )  
petition for approval of long-term fuel ) Docket No.: 041414-El  
supply and transportation contracts for )  
Hines Unit 4 and additional system )  
supply and transportation. ) Submitted for Filing: April 20, 2005

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PROGRESS ENERGY FLORIDA'S AMENDED FIRST REQUEST  
FOR CONFIDENTIAL CLASSIFICATION

Progress Energy Florida ("PEF" or the "Company"), pursuant Section 366.093, Fla. Stats., and Rule 25-22.006, F.A.C., requests confidential classification of the revised redacted portions of the direct testimony of Pamela R. Murphy, specifically portions of pages 13 and 14, and the revised Exhibits PRM-5 and 6 to that testimony, which contain competitive confidential business information of both PEF and third-party fuel supply and transportation contractors that PEF has contracts with. The unredacted revised testimony and exhibits discussed above are being filed under seal with the Commission on a confidential basis to keep the competitive business information in those documents

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confidential.

The Confidentiality of the Testimony and Exhibits at Issue

Section 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

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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... 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. Additionally, subsection 366.093(3)(e) defines "information relating to competitive interests, the disclosure of which would impair the competitive business of the provider of the information," as proprietary confidential business information.

Portions of the revised pages 13 and 14 of the direct testimony of Pamela R. Murphy and Exhibits PRM-5 and 6 should be afforded confidential treatment for the reasons set forth in the Affidavit of Pamela R. Murphy filed in support of PEF's Amended First Request for Confidential Classification and for the following reasons. Portions of Ms. Murphy's direct testimony and the aforementioned exhibits thereto contain confidential competitive business information of both PEF and third-party fuel suppliers and transportation companies with which PEF has contracts. Specifically, portions of that testimony and those exhibits 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 Amended First Request for Confidential Classification for which PEF intends to request confidential classification with the appropriate section, pages, or lines containing the confidential information highlighted. These revised, highlighted pages and exhibits should replace the corresponding original highlighted pages and exhibits provided in PEF's First Request for Confidential Classification. **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 testimony and exhibits with the information for which PEF intends to request confidential classification redacted by section, page, or lines where appropriate as Appendix B. These revised, redacted pages and exhibits

should replace the corresponding original redacted pages and exhibits provided in PEF's First Request for Confidential Classification; and

(3). A revised justification matrix supporting PEF's request for confidential classification of the highlighted information contained in confidential Appendix A, as Appendix C. This revised justification matrix, in its entirety, should replace the original justification matrix filed with PEF's First Request for Confidential Classification.

WHEREFORE, PEF respectfully requests that the revised redacted portions of pages 13 and 14 of Pamela R. Murphy's direct testimony and the revised Exhibits PRM-5 and 6 be classified as confidential for the reasons set forth above.

Respectfully submitted this 20<sup>th</sup> day of April, 2005.

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**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 20<sup>th</sup> day of April, 2005.

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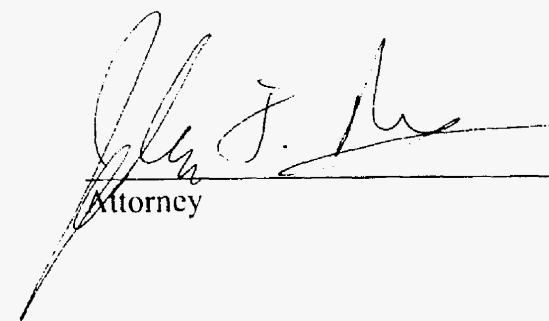
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