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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

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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: April 27, 2005

COMMISSION  
CLERK

**PROGRESS ENERGY FLORIDA'S SEVENTH 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 confidential portions of the Panel Deposition taken on April 19, 2005 and the Exhibits to that deposition. On April 21, 2005, PEF filed a Notice of Intent to Request Confidential Classification with respect to this information. PEF therefore files this Request for Confidential Classification within the twenty-one day period set out in Rule 25-22.006, F.A.C. Specifically, portions of the deposition testimony and exhibits contain confidential information regarding contracts between PEF and fuel suppliers, as well as confidential information regarding pricing and quantity. Accordingly, PEF hereby submits the following.

**Basis for Confidential Classification**

CMP \_\_\_\_\_  
COM \_\_\_\_\_ Subsection 366.093(1), Florida Statutes, provides that "any records received by the  
CTR \_\_\_\_\_  
ECR 1 Commission which are shown and found by the Commission to be proprietary confidential  
GCL 1 business information shall be kept confidential and shall be exempt from [the Public Records  
OPC \_\_\_\_\_ Act]." § 366.093(1), Fla. Stats. Proprietary confidential business information means  
MMS \_\_\_\_\_  
RCA \_\_\_\_\_ information that is (i) intended to be and is treated as private confidential information by the  
SCR \_\_\_\_\_ Company, (ii) because disclosure of the information would cause harm, (iii) either to the

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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.

The aforementioned deposition testimony and exhibits should be afforded confidential treatment for the reasons set forth in the Affidavit of Pamela R. Murphy filed in support of PEF's Seventh Request for Confidential Classification and for the following reasons. This exhibit calls for information relating to confidential contracts between PEF and its fuel suppliers, as well as PEF's analysis of those contracts. 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 its 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;**

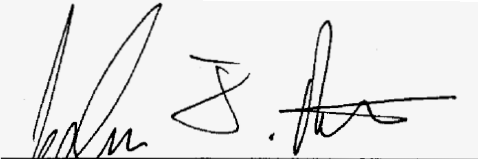
(2). Two copies of the confidential responses with the information for which PEF intends to request confidential classification redacted by section, page, or lines where appropriate as Appendix B; and

(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 the deposition testimony and exhibits be classified as confidential for the reasons set forth above.

Respectfully submitted this <sup>27</sup>th 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 <sup>27</sup>th day of April, 2005.

**Via electronic and U.S. Mail (without attachments)**


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