

ORIGINAL

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for rate increase by  
Progress Energy Florida, Inc.

Docket No. 050078-EI  
Submitted for filing July 19, 2005

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

Progress Energy Florida ("PEF" or the "Company"), pursuant to Section 366.093, Fla. Stats., and Rule 25-22.006, Florida Administrative Code, files this Eighth Request for Confidential Classification for confidential portions of PEF's responses to Staff's Fourth Request for Production of Documents (Nos. 42-46), as well as the Florida Retail Federation's ("FRF's") Third Request for Production of Documents (Nos. 16-35), and FRF's First Set of Interrogatories (Nos. 1-77), as Staff has requested copies of these responses. On June 28, 2005, PEF filed its Seventh Notice of Intent to Request Confidential Classification with respect to this information. PEF therefore files this Eighth Request for Confidential Classification within the twenty-one day period set out in

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Rule 25-22.006, Florida Administrative Code. Specifically, portions of the documents responsive to Staff's Requests 43-45, FRF's Request 26, and FRF's Interrogatory number 49, Attachment K, contain contract information with sensitive, confidential pricing terms as well as details of oil hedge deals, including price, volumes, and quantities and, thereby, the disclosure of such sensitive business information to the public would adversely impact PEF's competitive business interest. 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 relating to competitive interests” is defined as proprietary confidential business information if the disclosure of such information “would impair the competitive business of the provider of the information.” §366.093(3)(e), Fla. Stats.

The aforementioned discovery sought by Staff should be afforded confidential treatment because portions of the responses to these interrogatories and requests for production contain confidential information relating to PEF’s competitive interests that, if disclosed to the public, would adversely impact PEF’s competitive business interests. Furthermore, public disclosure of the information in question (such as PEF’s confidential pricing terms and details regarding PEF’s hedging deals) would compromise PEF’s competitive business interests by disclosing sensitive business information.

### **Response to Staff's Request 43**

Portions of PEF's responses to Staff's Request 43 should be afforded confidential treatment for the reasons set forth in the Affidavit of Javier Portuondo filed in support of PEF's Eighth Request for Confidential Classification and for the following reasons.

Portions of the responses to this request for production contain details of oil hedge deals, including price, volumes, and quantities and, thereby, the disclosure of such sensitive business information to the public would adversely impact PEF's competitive business interest. See Affidavit of Javier Portuondo at 5. Additionally, this response contains confidential contract terms between PEF and third parties, the disclosure of which may impair PEF's ability to effectively negotiate oil contracts. Id. Specifically, if other third parties were made aware of PEF's confidential deals and contractual information, they may offer PEF less competitive contractual terms in future contractual negotiations. Id.

### **Response to Staff's Requests 44 and 45**

Portions of PEF's responses to Staff's Requests 44 and 45 should be afforded confidential treatment for the reasons set forth in the Affidavit of Javier Portuondo filed in support of PEF's Eighth Request for Confidential Classification and for the following reasons. Specifically, portions of the responses to these requests for production contain confidential details of PEF's oil hedge deals, including price, volumes, and quantities and, thereby, the disclosure of such sensitive business information to the public would adversely impact PEF's competitive business interest. If PEF's suppliers or competitors were made aware of PEF's oil hedge deals, they may adjust their behavior in the market place with respect to activity such as pricing and the acquisition and provision of goods, materials, and services. See Affidavit of Javier Portuondo at 6. Specifically, PEF's

suppliers and providers may decrease supply of such equipment or materials, and/or increase the cost and prices of such goods. Id.

**Response to FRF's Interrogatory No. 49 and Request 26**

Portions of PEF's responses to FRF's Interrogatory No. 49, Attachment K, and FRF's Request No. 26, should be afforded confidential treatment for the reasons set forth in the Affidavit of Javier Portuondo filed in support of PEF's Eighth Request for Confidential Classification and for the following reasons. Portions of the attachment in response to this interrogatory and the documents responsive to this request for production contain confidential contractual terms and data regarding contracts between PEF and third parties, the disclosure of which may impair PEF's ability to contract for goods and services on favorable terms. See Affidavit of Javier Portuondo at 8. Specifically, if other third parties were made aware of PEF's confidential deals and contractual information, they may offer PEF less competitive contractual terms in future contractual negotiations. Id.

Strict procedures are established and followed to maintain the confidentiality of the terms of the confidential documents and information at issue, 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 documents. See Affidavit of Javier Portuondo at 9. At no time has the Company publicly disclosed the confidential information or documents at issue. Id. The Company has treated and continues to treat the information and documents at issue as confidential. Id.

### Conclusion

Certain portions of the responses to the interrogatories and requests for production sought by Staff and the Florida Retail Federation fit the statutory definition of proprietary confidential business information under Section 366.093 and Rule 25-22.006, Florida Administrative Code, 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 the responses to Staff's Fourth Requests for Production (Nos. 42-46), Requests 43-45, FRF's Third Requests for Production (Nos. 16-35), Request 26, and FRF's First Set of Interrogatories (Nos. 1-77), Interrogatory 49, Attachment K, described specifically in Attachment C, be classified as confidential for the reasons set forth above.

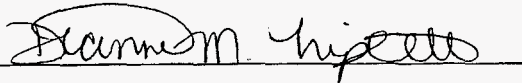
Respectfully submitted this 19th day of July, 2005.

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**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished electronically and via U.S. Mail this 19<sup>th</sup> day of July, 2005 to all counsel of record as indicated below.



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