

ORIGINAL

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

RECEIVED FPSC

05 JUL 22 PM 2:40

COMMISSION
CLERK

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

Docket No. 050078-EI
Submitted for filing July 22, 2005

**PROGRESS ENERGY FLORIDA'S TENTH 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 Tenth Request for Confidential Classification for confidential portions of PEF's supplemental responses to the Office of Public Counsel's ("OPC") First Request for Production (Nos. 1-75), as Staff has requested copies of these responses. On July 1, 2005, PEF filed its Eighth Notice of Intent to Request Confidential Classification with respect to this information. PEF therefore files this Tenth Request for Confidential Classification within the twenty-one day period set out in Rule 25-22.006, Florida Administrative Code. Specifically, portions of PEF's supplemental responses to Requests 7, 10, and 61 contain sensitive and confidential business information (such as business plans and analyses, internal audits, and tax information), the disclosure of which would compromise PEF's competitive business interests. 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

- CMP _____
- COM _____
- CTR _____
- ECR |
- GCL |
- OPC _____
- RCA _____
- SCR _____
- SGA _____
- SEC |
- OTH |

conf records

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. Additionally, proprietary confidential business information includes "internal auditing controls and reports of internal auditors. §366.093(3)(b), Fla. Stats.

The aforementioned discovery provided to OPC and sought by Staff should be afforded confidential treatment because portions of the responses to these requests for production contain confidential information relating to PEF's competitive interests. Public disclosure of the information in question would compromise PEF's competitive business interests by disclosing sensitive business information.

OPC's First Request for Production No. 7

Portions of PEF's supplemental responses to OPC's First Request for Production Number 7 should be afforded confidential treatment for the reasons set forth in the Affidavit of Javier Portuondo filed in support of PEF's Tenth Request for Confidential Classification and for the following reasons. Portions of the responses to this Request contain confidential information relating to PEF's business plans and its risk and operational analyses 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. Specifically, if PEF's competitors, suppliers, and providers are

made aware of these business plans and analyses, they may adjust their behavior in the market place with respect to activity such as pricing and the acquisition and provisions of goods, materials, and services. Id. For example, PEF's suppliers or providers may decrease supply of such goods and services, and/or increase the cost and prices of such goods and services. Id. Additionally, PEF's competitors may adjust their consumption behavior in the market, thereby potentially making goods and services less available and more expensive to PEF. Id.

OPC's First Request for Production No. 10

Portions of PEF's supplemental responses to OPC's First Request for Production Number 10 should be afforded confidential treatment for the reasons set forth in the Affidavit of Javier Portuondo filed in support of PEF's Tenth Request for Confidential Classification and for the following reasons. Portions of the responses to this Request contain information concerning internal auditing by PEF. Such information is protected from public disclosure by Section 366.093(3)(b), Fla. Stat. See Affidavit of Javier Portuondo at 6.

OPC's First Request for Production No. 61

Portions of PEF's supplemental responses to OPC's First Request for Production Number 61 should be afforded confidential treatment for the reasons set forth in the Affidavit of Javier Portuondo filed in support of PEF's Tenth Request for Confidential Classification and for the following reasons. Portions of the responses to this Request contain tax documents. See Affidavit of Javier Portuondo at 7. Public disclosure of such documents may adversely impact PEF's competitive business interests because the information therein contains detailed financial information related to costs and expenses that the Company incurs as well as details regarding the company's revenue. Id.

Specifically, if PEF's suppliers and providers were made aware of the tax information at issue, they may decrease supply of certain goods and services, and/or increase the cost and prices of such goods and services. Id. Additionally, PEF's competitors may adjust their consumption behavior in the market, thereby potentially making goods and services less available and more expensive to PEF. 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 8. 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 supplemental responses to the requests for production provided to the Office of Public Counsel and sought by Staff 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 supplemental responses to OPC's First Request for Production of Documents (Nos. 1-75), Requests 7, 10, and 61, described specifically in Attachment C, be classified as confidential for the reasons set forth above.

Respectfully submitted this 22nd day of July, 2005.

R. ALEXANDER GLENN
Deputy General Counsel – Florida
PROGRESS ENERGY SERVICE
COMPANY, LLC
100 Central Avenue, Ste. 11D
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
DIANNE M. TRIPLETT
Florida Bar No. 0872431
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 and correct copy of the foregoing has been furnished electronically and via U.S. Mail this 22nd day of July, 2005 to all counsel of record as indicated below.



Attorney

Jennifer Brubaker Felicia Banks Jennifer Rodan Office of the General Counsel Florida Public Service Commission 2540 Shumard Oak Boulevard Tallahassee, FL 32399-0850	John W. McWhirter, Jr. McWhirter, Reeves, Davidson, Kaufman & Arnold, P.A. 400 North Tampa Street, Ste. 2450 Tampa, FL 33601-3350 -and- Timothy J. Perry McWhirter, Reeves, Davidson, Kaufman & Arnold, P.A. 117 South Gadsden Street Tallahassee, FL 32301 Counsel for Florida Industrial Power Users Group
C. Everett Boyd, Jr. Sutherland Asbill & Brennan LLP 2282 Killearn Center Blvd. Tallahassee, FL 32309 -and- James M. Bushee Daniel E. Frank Andrew K. Soto Sutherland Asbill & Brennan LLP 1275 Pennsylvania Avenue, N.W. Washington, DC 20004-2415 -and- Richard A. Zambo Richard A. Zambo, P.A. 2336 S.E. Ocean Blvd., #309 Stuart, FL 34996 -and- Karin S. Torain PCS Administration, (USA), Inc. Suite 400 Skokie blvd. Northbrook, IL 60062 Counsel for White Springs	Robert Scheffel Wright, John T. LaVia, III, Landers & Parsons, P.A. 310 West College Avenue (ZIP 32301) Post Office Box 271 Tallahassee, Florida 32302 Counsel for Florida Retail Federation
Alan R. Jenkins McKenna Long & Aldridge LLP	Harold McLean Office of the Public Counsel c/o The Florida Legislature 111 W. Madison Street, Room 812 Tallahassee, FL 32399-1400 Mike B. Twomey P.O. Box 5256 Tallahassee, FL 32314-5256 Counsel for AARP

One Peachtree Center 303 Peachtree Street, Suite 5300 Atlanta, Georgia 30308 Counsel for the Commercial Group	
--	--