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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

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

Docket No. 050078-EI Submitted for filing July 29, 2005

COMMISSION CLERK

PROGRESS ENERGY FLORIDA'S TWELFTH 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 Twelfth Request for Confidential Classification for confidential portions of PEF's responses to White Springs' Second Request for Production (Nos. 17-50), Staff's Fifth Request for Production (Nos. 47-52), Staff's Sixth Set of Interrogatories (Nos. 158-175), OPC's First Request for Production (Nos. 1-75), and OPC's Third Request for Production (Nos. 108-124), as Staff has requested copies of these responses. On July 8, 2005, PEF filed its Tenth Notice of Intent to Request Confidential Classification with respect to this

CMP _____ information. PEF therefore files this Twelfth Request for Confidential Classification within the twenty-one day period set out in Rule 25-22.006, Florida Administrative Code.

COM _____ Specifically, portions of the documents responsive to White Springs' Request No. CTR _____ 49 contain sensitive, competitive market research data, the disclosure of which would ECR 1 _____ adversely impact PEF's competitive business interests. BCL 1 _____

OPC _____ Additionally, portions of the documents responsive to Staff's Request No. 52 RCA _____ contain confidential contractual pricing arrangements and insurance terms between PEF ICR _____ and third parties that would adversely impact PEF's competitive business interests if IGA _____ EC 1 _____

TH 1 COM records disclosed to the public.

DOCUMENT NUMBER-DATE

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Further, portions of PEF's response to Staff's Interrogatory No. 169 contain Progress Energy's projected and estimated figures for short and long term debt, off balance sheet obligations, preferred stock, and common equity, along with other sensitive business information that PEF does not make publicly available. In addition, portions of the attachment provided in PEF's response to Staff's Interrogatory No. 173 contain confidential contract prices and terms between PEF and its third party transportation vendors, the disclosure of which would impair PEF's ability to contract on favorable terms with transportation vendors.

Finally, PEF's supplemental responses to OPC's Request Nos. 71 and 110 contain confidential studies which concern proprietary business information and were prepared by third parties. PEF has a contractual obligation with these third parties to not disclose the proprietary business information contained in the studies. Disclosure of the confidential studies to the public, to PEF's suppliers, or to PEF's competitors would adversely impact PEF's competitive business and impair PEF's efforts to contract for good or services on favorable terms. 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. Section 366.093(3)(d) further defines proprietary confidential business information as “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.” §366.093(3)(d), Fla. Stats.

The aforementioned discovery sought by Staff should be afforded confidential treatment because portions of the responses to these requests for production and interrogatories 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 contractual and business information.

White Springs’ Second Request for Production No. 49

Portions of PEF’s responses to White Springs’ Second Request for Production No. 49 should be afforded confidential treatment for the reasons set forth in the Affidavit of Javier Portuondo filed in support of PEF’s Twelfth Request for Confidential Classification and for the following reasons. Portions of the responses to this Request contain sensitive, competitive market research data, the disclosure of which would adversely impact PEF’s competitive business interests. See Affidavit of Javier Portuondo at 5. If PEF’s suppliers or competitors were made aware of PEF’s competitive market research data, they may adjust their behavior in the market place with respect to activity such as pricing and the acquisition and provision of goods and services. Id. Specifically, such suppliers and providers 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.

Staff's Fifth Request for Production No. 52

Portions of PEF's response to Staff's Fifth Request for Production No. 52 should be afforded confidential treatment for the reasons set forth in the Affidavit of Javier Portuondo filed in support of PEF's Twelfth Request for Confidential Classification and for the following reasons. Portions of the documents responsive to Request 52 contain confidential contractual pricing arrangements and insurance terms between PEF and third parties that would adversely impact PEF's competitive business interests if disclosed to the public. See Affidavit of Javier Portuondo at 6. If other third parties were made aware of confidential contractual terms that PEF has with other parties, they may offer PEF less competitive contractual terms in future contractual negotiations. Id.

Staff's Sixth Set of Interrogatories No. 169

Portions of PEF's response to Staff's Sixth Set of Interrogatories No. 169 should be afforded confidential treatment for the reasons set forth in the Affidavit of Javier Portuondo filed in support of PEF's Twelfth Request for Confidential Classification and for the following reasons. Portions of PEF's response to Interrogatory No. 169 contain Progress Energy's projected and estimated figures for short and long term debt, off balance sheet obligations, preferred stock, and common equity, along with other sensitive business information that PEF does not make publicly available. See Affidavit of Javier Portuondo at 7. If PEF's suppliers or competitors were made aware of the projected and estimated figures for short and long term debt, off balance sheets, preferred stock, or common equity, they may adjust their behavior in the market place with respect to activity such as pricing and the acquisition and provision of goods, materials, or services.

Id. Specifically, if PEF's suppliers and providers were made aware of the sensitive 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.

Staff's Sixth Set of Interrogatories – Attachment to No. 173

Portions of PEF's attachment to Staff's Sixth Set of Interrogatories No. 173 should be afforded confidential treatment for the reasons set forth in the Affidavit of Javier Portuondo filed in support of PEF's Twelfth Request for Confidential Classification and for the following reasons. Portions of the attachment to Interrogatory No. 173 contain confidential contract prices and terms between PEF and its third party transportation vendors, the disclosure of which would impair PEF's ability to contract on favorable terms with transportation vendors. See Affidavit of Javier Portuondo at 8. If other third parties were made aware of confidential contractual terms that PEF has with other parties, they may offer PEF less competitive contractual terms in future contractual negotiations. Id.

OPC's First Request for Production No. 71
OPC's Third Request for Production No. 110

Portions of PEF's supplemental responses to OPC's First Request for Production No. 71 and OPC's Third Request for Production No. 110 should be afforded confidential treatment for the reasons set forth in the Affidavit of Javier Portuondo filed in support of PEF's Twelfth Request for Confidential Classification and for the following reasons. Portions of the supplemental responses to these Requests contain confidential studies which concern proprietary business information and were prepared by third parties. See

Affidavit of Javier Portuondo at 9. PEF has a contractual obligation with these third parties to not disclose the proprietary business information contained in the studies and, thereby, public disclosure of the documents in question would violate such confidentiality provisions and may impair PEF's efforts to contract favorably in future negotiations. Id. Specifically, PEF may not be able to favorably contract for the services offered by these third parties if such parties are not assured that all the information provided in connection with the studies is kept confidential. 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 and documents to assist the Company. See Affidavit of Javier Portuondo at 10. 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 requests for production and interrogatories 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 its responses to White Springs' Second Request for Production (Nos. 17-50), Staff's Fifth Request for Production (Nos. 47-52), Staff's Sixth Set of Interrogatories (Nos. 158-175), OPC's First Request for Production (Nos. 1-75), and OPC's Third Request for Production (Nos. 108-124), described specifically in Attachment C, be classified as confidential for the reasons set forth above.

Respectfully submitted this 29th 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 29th day of July, 2005 to all counsel of record as indicated below.



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