

Hopping Green & Sams

Attorneys and Counselors

Writer's Direct Dial No.
(850) 425-2359

September 9, 2005

BY HAND DELIVERY

Blanca Bayó
Director Records and Reporting
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399

Re: Docket No. 050001-EI – Confidentiality Request – Testimony & Exhibit of
Samuel S. Waters

Dear Ms. Bayó:

Enclosed for filing on behalf of Progress Energy Florida, Inc., (PEF) are the following:

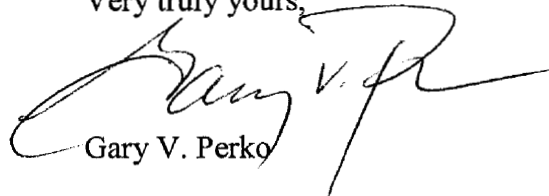
(1) The original and seven copies of PEF's Request for Confidential Classification, including Exhibit A, which is attached to this request, identifies by page and line the information for which PEF seeks confidential treatment. A diskette containing the Request in Word format is being submitted contemporaneously with the Petition identified above;

(2) An envelope containing Composite Exhibit B, which includes two redacted copies of the confidential documents; and

(3) A CONFIDENTIAL package containing Composite Exhibit C which includes one copy of the documents on which the confidential material has been highlighted.

Please stamp and return the enclosed extra copy of this filing. If you have any questions regarding this filing, please contact the undersigned.

Very truly yours,



Gary V. Perko

Enclosures

cc: certificate of service

DOCUMENT NUMBER-DATE

08583 SEP-9 05

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Fuel and Purchase Power)
Cost Recovery Clause with) Docket No. 050001-EI
Generating Performance Incentive)
Factor) Filed: September 9, 2005
_____)

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

Progress Energy Florida, Inc., (“PEF” or “Company”), pursuant to Section 366.093, Florida Statutes (F.S.), and Rule 25-22.006(3), and (4), Florida Administrative Code (F.A.C.), submits this Request For Confidential Classification of portions of the pre-filed direct testimony of Samuel S. Waters and Exhibit No. ___ (SSW-1) thereto filed by PEF in this docket. In support of this Request, PEF states:

1. Contemporaneously with this Request, PEF is pre-filing the direct testimony of Samuel S. Waters in support of PEF’s request for approval of a purchase power agreement between PEF and Central Power & Lime, Inc. (“CPL”). Exhibit No. __ (SSW-1) to Mr. Waters’ testimony is a copy of the agreement itself. As explained below, Mr. Waters’ testimony and Exhibit No. __ (SSW-1) contain information that is “proprietary business information” under Section 366.093(3), F.S.

2. The following exhibits are included with this request:

(a) Exhibit A is a table which identifies by page and line the information for which PEF seeks confidential classification and the specific statutory bases for seeking confidential treatment.

(b) Composite Exhibit B is a package containing two copies of redacted versions of Mr. Waters’ testimony and the agreement (Exhibit No. __ (SSW-1)). The specific

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08583 SEP-9 05

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information for which confidential treatment is requested has been blocked out by opaque marker or other means.

(c) Composite Exhibit C is a package containing unredacted copies of the documents for which PEF seeks confidential classification. Composite Exhibit C is being submitted separately in a sealed envelope labeled “CONFIDENTIAL.” In the unredacted copies, the information asserted to be confidential is highlighted in yellow.

Justification for Confidential Classification

3. Subsection 366.093(1), F.S., provides that any records “found by the commission to be proprietary confidential business information shall be kept confidential and shall be exempt from s. 119.07(1) [requiring disclosure under the Public Records Act]. “Proprietary confidential business information includes, but is not limited to, “[i]nformation concerning...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” (subsection 366.093(3)(d)), and “[i]nformation relating to competitive interests, the disclosure of which would impair the competitive business of the provider of the information” (subsection 366.093(3)(e)). The designated portions of the Waters Testimony and Exhibits fall within these statutory categories and, thus, constitute proprietary confidential business information entitled to protection under Section 366.093 and Rule 25-22.006.

4. Specifically, the highlighted information (a) on page 4 (lines 18-20), page 5 (lines 8-10, 13, 15, 17 and 18), and page 6 (lines 10-13), of Mr. Waters’ direct testimony, and (b) on pages 4 (line 1), 12 (lines 12-22), 35 (Exhibit B), and 36 (Exhibit C) of the CPL Agreement (Exhibit No. __ (SSW-1)), identifies contractual prices or pricing terms and provisions used to determine payments made pursuant to the Agreement. Disclosure of this information would

provide PEF's existing and potential wholesale power suppliers with a significant competitive advantage in bidding or negotiating for the Company's future power purchases. Because of this competitive advantage, potential suppliers would be able to avoid offering their lowest price and instead simply undercut the Company's existing price. As a result, PEF and ultimately its customers could incur higher purchased power costs than if the Company's suppliers were not forearmed with this competitively sensitive and valuable information.

5. The highlighted information on pages 1-3, 4 (lines 2-7), 5, 9 (lines 7-39), 10-11, 12 (lines 1-11, 24-40), 13-15, 17, 19-20, 23-24, 28-29, 34 (Exhibit A), 37-38 (Exhibit D) and 40-41 (Exhibit F) of the CPL Agreement (Exhibit No. __ (SSW-1)) identifies sensitive contractual terms and specifications negotiated by PEF for the power to be purchased pursuant to the CPL Agreement, in addition to the pricing information described in paragraph 4 above. Disclosure of these contractual terms and specifications would be detrimental to PEF and its customers in at least two ways. First, disclosure would place the Company at a competitive disadvantage in future negotiations with potential suppliers of purchased power who would use the most advantageous of these terms and specifications as the beginning point, or floor, of their bargaining position and the least advantageous terms and specification as their ceiling, knowing in either case that they had been previously accepted by PEF. Second, existing and potential power suppliers would be less willing, or unwilling, to offer PEF special or unique concessions on contractual terms and specifications if they were aware that such concessions may be disclosed to other potential purchasers who would then demand similar concessions. Either or both of these situations would impair PEF's efforts to contract for goods and services on favorable terms, to the detriment of its customers in the form of higher purchased power costs.

6. The highlighted information identified on pages 9 (lines 1-6) and 33 (lines 1-6), is competitively sensitive contractual data related to CPL which PEF is contractually obligated to maintain confidential. Without assurances that competitively sensitive information of this nature will not be publicly disclosed, potential suppliers might withhold sensitive information necessary for PEF to understand and assess the risks and benefits of their proposals. Further, without assurances of non-disclosure, potential suppliers might choose not to contract with PEF. In either case, PEF's efforts to contract for goods and services on favorable terms would be impaired by disclosure of the confidential information deemed confidential by potential suppliers. Furthermore, this information relates to competitive interests, "the disclosure of which would impair the competitive business of the provider of the information." Accordingly, the information qualifies for confidential classification under Section 366.093(3)(d) and (e), F.S.

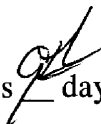
7. Accordingly, the information identified above constitutes "proprietary confidential business information" which is exempt from disclosure under the Public Records Act pursuant to Section 366.093(1), F.S.

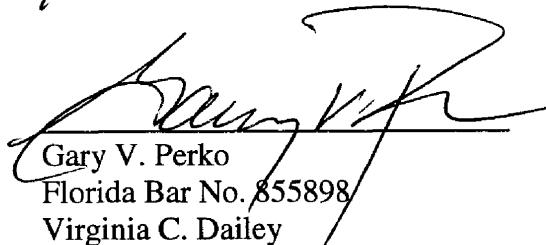
8. The information for which PEF seeks confidential classification is intended to be and is treated as confidential by the Company. The information has not been disclosed to the public.

Duration of Confidential Classification

9. PEF requests that the information identified above be classified as "proprietary confidential business information" within the meaning of section 366.093(3), F.S., that the information remain confidential for a period of at least 18 months as provided in section 366.093(4), F.S., and that the information be returned as soon as it is no longer necessary for the Commission to conduct its business, in accordance with Rule 25-22.006(9), F.A.C.

WHEREFORE, for the foregoing reasons, Progress Energy Florida, Inc., respectfully requests that its Request for Confidential Classification be granted.

RESPECTFULLY SUBMITTED this  day of September, 2005.



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EXHIBIT A

**PROGRESS ENERGY FLORIDA
Confidentiality Justification**

Power Purchase Agreement with Central Power & Lime Inc. (CP&L) (EXHIBIT SSW-1 TO WATERS TESTIMONY)			
Document	Page	Line No(s).	Statutory Justification
Testimony	4	18-20	§ 363.093(3)(d)(e), F.S. (see ¶4 of Request)
	5	8-10, 13, 15, 17, 18	
	6	10-13	
Agreement Exhibit No. ____ (SSW-1)	1	1-2	§ 363.093(3)(d)(e), F.S. (see ¶¶4-6 of Request)
	2	1-9	
	3	1-20	
	4	1-7	
	5	1-7	
	9	1-39	
	10	1-29	
	11	1-12, 21-40	
	12	1-11, 12-22, 24-40	
	13	1-2	
	14	1-9	
	15	1-38	
	17	1-5	
	19	1-19, 32-33	
	20	1-6	
	23	1-9	
	24	1-4	
	28	1	
	29	1	
	33	All	
	34, Exhibit A	1, 5-16	
35, Exhibit B	1, 3-4, 6, 8-16		
36, Exhibit C	All		
37-38, Exhibit D	All		
40-41, Exhibit F	All		