

ORIGINAL

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Fuel and purchased power cost recovery clause with generating performance incentive factor.

Docket No. 060001-EI

Dated: March 16, 2006

COMMISSION CLERK

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**PROGRESS ENERGY FLORIDA INC.'S NOTICE OF INTENT TO REQUEST CONFIDENTIAL CLASSIFICATION**

Progress Energy Florida, Inc., ("PEF" or "Company"), pursuant to Section 366.093, Florida Statutes (F.S.), and Rule 25-22.006, Florida Administrative Code (F.A.C.), submits this Notice of Intent to Request for Confidential Classification of confidential portions of PEF's responses to OPC's First Request for Production (Nos. 1-14). Specifically, portions of the documents responsive to Requests 1, 2, 6, 7, 8, 12, & 14 contain confidential business information relating to PEF's coal procurement process. Therefore, the disclosure of that information to the public would adversely impact PEF's competitive business interests. Disclosure of that information to the public would also

CMP \_\_\_\_\_

COM \_\_\_\_\_

adversely impact the competitive business interests of PEF's potential coal suppliers.

CTR \_\_\_\_\_

Attached as Exhibit A is a confidential, highlighted copy of the above-referenced responses

ECR 1

and documents.

GCL 1

OPC \_\_\_\_\_

Pursuant to Rule 25-22.006(3)(a)(1), PEF will file its Request for Confidential Classification

RCA \_\_\_\_\_

SCR \_\_\_\_\_

SGA \_\_\_\_\_

SEC 1

OTH loop records

RECEIVED & FILED

FPSC-BUREAU OF RECORDS

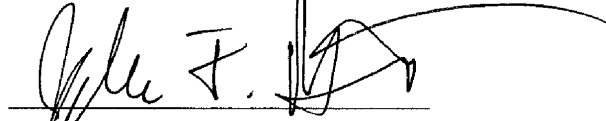
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FPSC-COMMISSION CLERK

for the confidential information contained herein within twenty-one (21) days of filing this request.

RESPECTFULLY SUBMITTED this <sup>16<sup>th</sup></sup> day of March, 2006.

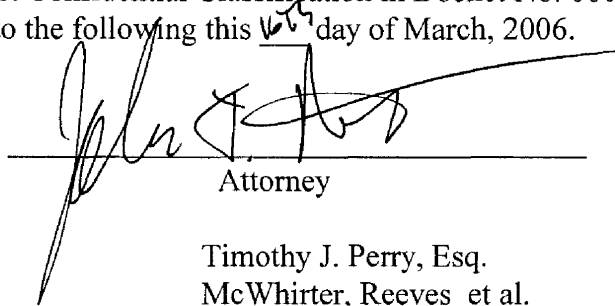
A handwritten signature in black ink, appearing to read "John T. Burnett", written over a horizontal line.

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**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of Progress Energy Florida, Inc.'s request for Notice of Intent to Request Confidential Classification in Docket No. 060001-EI has been furnished by regular U.S. mail to the following this <sup>14</sup> day of March, 2006.



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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Fuel and Purchased Power	)	
Cost Recovery Clause with	)	DOCKET NO. 060001-EI
Generating Performance Incentive	)	
Factor	)	FEBRUARY 14, 2006
_____	)	

**CITIZENS' FIRST REQUEST TO PRODUCE DOCUMENTS  
TO PROGRESS ENERGY FLORIDA, INC. (NOS. 1- 14)**

Pursuant to § 350.0611(1), Fla. Stat. (2002), Fla. Admin. Code R. 28-106.206, and Fla. R. Civ. P.1.350, the Citizens of the State of Florida ("Citizens"), through the Office of Public Counsel, request Progress Energy Florida, Inc. ("PEF") to produce the following documents for inspection and copying at the Office of Public Counsel, Claude Pepper Building, 111 West Madison Street, Room 812, Tallahassee, Florida 32399-1400, on or before Monday, March 20, 2006, or at such other time and place as may be mutually agreed upon by counsel.

**DEFINITIONS**

1. The terms "document" or "documents" are meant to have the broadest possible meaning under applicable law and include, but are not necessarily limited to, any written, recorded, filmed or graphic matter, whether produced, reproduced, or on paper, e-mail, cards, tapes, film, electronic facsimile, computer storage device or any other media, including, but not limited to, memoranda, notes, minutes, records, photographs, correspondence, telegrams, diaries, bookkeeping entries, financial statements, tax returns, checks, check stubs, reports, studies, charts, graphs, statements,

notebooks, handwritten notes, applications, agreements, books, pamphlets, periodicals, appointment calendars, records and recordings of oral conversations, work papers, and notes, any of which are in your possession, custody, or control.

2. The terms "PEF" and "company" encompass Progress Energy Florida, Inc., together with the officers, employees, consultants, agents, representatives, attorneys, and any other person or entity acting on behalf of Progress Energy Florida, Inc.

3. "Progress Fuels" means Progress Fuels Corporation, and includes the officers, employees, consultants, agents, representatives, attorneys, and any other person or entity acting on behalf of Progress Fuels Corporation.

4. As used herein the term "You," means Progress Energy Florida, Inc., and/or Progress Fuels Corporation, and all officers, employees, consultants, and agents, of either or both corporations, as the context requires.

5. Words in the past tense include the present, and words in the present tense include the past. Use of the singular includes the plural, and use of the masculine includes the feminine where appropriate, and vice versa.

6. "Formal solicitation" or "Formal RFP" means the process that Progress Fuels Corporation used, beginning in May 2004, to prepare a written Request For Proposals solicitation document, contact all companies on its Master Bidders' list, and

solicit proposals for delivery of coal to Crystal River during 2005 and 2006; evaluate and compare the bids submitted; and award contracts to some five entities, including Progress Fuels Corporation's Marketing and Trading section.

7. "Informal solicitation" means the telephonic and any other communications between Al Pitcher of Progress Fuels and four suppliers of South American coal and Progress Fuels' own Marketing and Trading Section, during the Fall of 2004 and following the completion of the Formal RFP, during which Mr. Pitcher informally invited these potential providers to submit bids to supply additional portions of PEF's coal needs at the Crystal River site for 2005 and 2006.

8. "Referenced bidders" means the vendors who submitted bids in the 2004 Formal RFP process applicable to Crystal River Units 4 and 5 that were lower in delivered cost than those to whom Progress Fuels awarded contracts.

### **INSTRUCTIONS**

1. If any document is withheld under any claim of privilege, please furnish a list identifying each document for which privilege is claimed, together with the following information: date, sender, recipients, recipients of copies, subject matter of the document, and the basis upon which such privilege is claimed.

2. These discovery requests are to be answered with reference to all information in your possession, custody or control, or reasonably available to you.

3. If Progress Energy Florida, Inc. has possession, custody, or control of the originals of the documents requested, please produce the originals or a complete copy of the originals and all copies which are different in any way from the original, whether by interlineation, receipt stamp or notation. If Progress Energy Florida, Inc. does not have possession, custody, or control of the originals of the documents requested, please produce any copies in the possession, custody, or control, however made, of Progress Energy Florida, Inc.

4. Please construe "and" as well as "or" either disjunctively or conjunctively as necessary to bring within the scope of this production of documents any document which might otherwise be construed to be outside the scope.



## **DOCUMENTS REQUESTED**

1. Please provide all studies, analyses, calculations, work papers, memoranda, correspondence, e-mails, reports, and all other documents prepared by Al Pitcher and/or other employees of Progress Fuels Corporation that address, refer to, analyze, discuss, treat, or relate in any manner to the ability or inability of PEF to burn the coals proffered by the “referenced bidders” in response to the Formal RFP under existing environmental permits.

2. Please provide (a) all studies, analyses, calculations, memoranda, correspondence, reports, and all other documents prepared by Al Pitcher and/or other employees of Progress Fuels Corporation and communicated by them to PEF management and (b) all studies, analyses, memoranda, correspondence, reports, and all other documents prepared by PEF management, or its employees or agents, that address, refer to, analyze, discuss, treat, or relate in any manner to the ability or inability of PEF to burn the coals proffered by the “referenced bidders” in response to the Formal RFP under existing environmental permits.

3. Please provide all studies, analyses, work papers, memoranda, correspondence, reports, e-mails, and all other documents communicated by Progress Fuels Corporation and/or PEF to any of the “referenced bidders” that address, refer to, analyze, discuss, treat, or relate in any manner to the ability or inability of PEF to burn the coals proffered by any of the “referenced bidders” in response to the Formal RFP under existing environmental permits.

4. Please provide copies of all environmental permits that were existing and applicable to Crystal River Units 4 and 5 at the time Progress Fuels and PEF were conducting the 2004 Formal RFP.

5. Please provide all studies, analyses, memoranda, correspondence, reports, e-mails, and all other documents that treat, discuss, refer to, or relate in any manner to the

subject of the ability or inability of PEF to burn coal of the quality offered by the “referenced bidders” in Crystal River Units 4 and 5 that were communicated between PEF and/or PEF, on the one hand, and any environmental regulatory agency, on the other.

6. Please provide all studies, analyses, memoranda, correspondence, reports, e-mails, and all other documents that address, refer to, analyze, study, discuss, treat, or relate in any manner to the transportation arrangements proposed by the “referenced bidders” in their responses to the Formal RFP. This request includes but is not limited to, documents prepared by the “referenced bidders”; documents prepared by transportation providers; documents prepared internally by Progress Fuels and/or PEF; and documents prepared by Progress Fuels and/or PEF and communicated by either of them to the other of them, or to any of the referenced bidders, or to any other entity.

7. Please provide the spreadsheet model with which Progress Fuels and/or PEF calculated the “utilization costs” associated with the bids submitted in response to the 2004 Formal RFP.

8. Please provide the work papers prepared by Progress Fuels and/or PEF when calculating the “utilization costs” associated with the bids submitted to Progress Fuels in the Formal RFP.

9. Please provide all documents identified in your response to your answers to Citizens' First Set of Interrogatories, nos. 1-14, which Interrogatories are being served concurrently with this Request to Produce Documents.

10. Unless the documents were produced to the Office of Public Counsel earlier or are being produced in response to another numbered request within this Request to Produce, please provide all analyses, studies, comparisons, memoranda, correspondence, e-mails, reports, and all other documents that address, analyze, discuss, treat, refer to, or relate in any manner to the evaluation, comparison, and scoring of the bids that Progress Fuels received in response to the Formal RFP. The scope of this request includes, but is not limited to, documents related to the rejection of any bids or the basis for eliminating any of the bids from further consideration.

11. Please provide any and all formal requests for proposals for the supply of coal to PEF's Crystal River units that have been issued by Progress Fuels and/or PEF since the 2004 Formal RFP and the fall 2004 informal solicitation.

12. Please provide all documents relating to any and all informal requests for proposals for the supply of coal to PEF's Crystal River units that have been issued by Progress Fuels and/or PEF since the 2004 Formal RFP and the fall 2004 informal solicitation.

13. Please provide unredacted copies of the Form 423 that PEF filed with the Florida Public Service Commission, beginning with the report for July 2005 and continuing through the most recent report filed.

14. Please provide any and all amendments to the contracts between Progress Fuels Corporation and the entities who were awarded contracts for the supply of coal to PEF's Crystal River units as a consequence of the 2004 Formal RFP and the Fall 2004 Informal solicitation.

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Attorneys for the Citizens  
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**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the Office of Public Counsel's First Request for Production of Documents (Nos. 1-14) has been furnished by electronic mail and U.S. Mail on this 14<sup>th</sup> day of February, 2006, to the following:

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