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January 16, 2007

Ms. Blanca S. Bayó, Director  
Division of the Commission Clerk and  
Administrative Services  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, FL 32399-0850

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COMMISSION  
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Re: Docket No. 060658 - EI  
Progress Energy Florida

Dear Ms. Bayó:

Attached for filing on behalf of Progress Energy Florida are the original and one copy of the following documents:

1. Progress Energy Florida Inc.'s Request for Confidential Classification; and
2. Progress Energy Florida, Inc.'s Notice of Filing of Affidavits.

Also enclosed for filing are the original and fifteen (15) copies of the following direct testimony:

- |                  |                        |
|------------------|------------------------|
| CMP _____        | 1. John Benjamin Crisp |
| COM _____        | 2. Lori J. Cross       |
| CTR _____        | 3. Donna M. Davis      |
| ECR <u>  1  </u> | 4. John W. Dean        |
| GCL <u>  1  </u> | 5. Steven M. Fetter    |
| OPC _____        | 6. Jon Franke          |
| RCA _____        | 7. Rod Hatt            |
| SCR _____        |                        |
| SGA _____        |                        |
| SEC <u>  1  </u> |                        |
| OTH <u>  1  </u> |                        |

1 conf records  
TPA#2315063.1

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Division of Filing  
January 16, 2007  
Page 2

8. James N. Heller
9. J. Michael Kennedy
10. Hubert J. Miller
11. Albert W. Pitcher
12. Clifford Wayne Toms
13. Sasha A.J. Weintraub.

As always, if you have any questions or need any further assistance, please call.

Sincerely,

A handwritten signature in black ink that reads "Dianne M. Triplett". The signature is written in a cursive style with a large, sweeping initial "D".

Dianne M. Triplett

Attachments  
DMT/jlc

# ORIGINAL

## BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Petition on behalf of Citizens of )  
the State of Florida to require ) DOCKET NO. 060658-EI  
Progress Energy Florida, Inc. to )  
refund to customers \$143 million ) Filed: January 16, 2007  
\_\_\_\_\_)

### **PROGRESS ENERGY FLORIDA INC.'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, Florida Administrative Code (F.A.C.), submits this Request for Confidential Classification for certain information included in and attached as exhibits to the written testimony of Albert Pitcher, Alexander Weintraub and Donna Davis. Specifically, portions of the written testimony of each witness, and exhibits attached to testimony of Albert Pitcher and Alexander Weintraub, contain sensitive and confidential business information (such as contractual information, internal analyses and strategies, proprietary third party information, and financial information) as well as contractual pricing arrangements between PEF and third parties that would adversely impact PEF’s competitive business interests if disclosed to the public. Accordingly, PEF hereby submits the following.

#### **Basis for Confidential Classification**

Subsection 366.093(1), F.S., 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), F.S. 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), F.S. Specifically, "information relating to competitive business interest" 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), F.S. Additionally, proprietary confidential business information includes "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), F.S.

The aforementioned written testimony and exhibits attached thereto should be afforded confidential treatment because portions of the testimony and the attached exhibits 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 and would undermine PEF's efforts to contract for goods or services on favorable terms.

#### **Albert Pitcher Written Testimony and Exhibit**

Portions of Albert Pitcher's written testimony should be afforded confidential treatment for the reasons set forth in the Affidavit of Albert Pitcher filed in support of this request for confidential classification and for the following reasons.

A portion of Albert Pitcher's testimony, specifically lines 16, 17, 19 and 20 on page 13, contains cost impact information regarding bids submitted in response to PEF's July 2003

RFP. This cost impact value is derived from PEF's analysis of bids in response to an RFP. PEF must be able to assure coal suppliers and transportation companies that sensitive business information, such as the pricing terms of their contracts, will be kept confidential. See Affidavit of Albert Pitcher at ¶7. With respect to the information at issue in this request, PEF has kept confidential and has not publicly disclosed confidential contract terms such as pricing, and similar competitive information. Id. Absent such measures, suppliers and transportation companies would run the risk that sensitive business information that they provided in their contracts with PEF would be made available to the public and, as a result, end up in the possession of potential competitors. See Affidavit of Albert Pitcher at ¶7. Additionally, the disclosure of confidential information in PEF's coal supply and transportation contracts, proposals, and other such documents could adversely impact PEF's competitive business interests. See Affidavit of Albert Pitcher at ¶8-9.

Exhibit AWP-6 to Albert Pitcher's testimony, as indicated in the Justification Matrix, attached as Exhibit C to this filing, contains contractual pricing arrangements between PEF and third parties (coal suppliers) that would adversely impact PEF's competitive business interests if disclosed to the public. The information for which Progress Energy requests confidential classification is "proprietary confidential business information" within the meaning of Section 366.093(3), Fla. Stats. Specifically, the information at issue relates to competitively negotiated contractual data, such as pricing of coals, and other contractual terms, the disclosure of which would impair the efforts of the Company or its affiliates to negotiate coal supply contracts on favorable terms. See § 366.093(3)(d), Fla. Stats.; Affidavit of Albert Pitcher 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. See Affidavit of Albert Pitcher at ¶8. 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 Albert Pitcher 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. PEF requests this information be granted confidential treatment by the Commission.

The Company further notes that the information requested to be classified as confidential in this exhibit was previously produced in response to an OPC Request for Production of Documents and that PEF originally requested confidential classification as to this information on March 31, 2006. Order No. PES-06-0640-CFO-EI was entered granting PEF's request on July 28, 2006.

#### **Alexander Weintraub Written Testimony and Attached Exhibits**

Portions of Alexander Weintraub's testimony, and exhibits to his written testimony, should be afforded confidential treatment for the reasons set forth in the Affidavit of Alexander Weintraub filed in support of this request for confidential classification and for the following reasons.

The information on page 10, lines 3-5 of Alexander Weintraub's testimony, pages 3-5 of Exhibit SAW-4 to his testimony, and pages 4-6 of Exhibit SAW-7 to his testimony, as explained in the attached Justification Matrix, includes confidential PEF hedging status guidelines. PEF negotiates with potential fuel suppliers to obtain competitive hedging pricing

for fuel that provides economic value to PEF and its ratepayers. See Affidavit of Alexander Weintraub at ¶5. In order to obtain such contracts, PEF must assure fuel suppliers that sensitive business information will be kept confidential. Id. With respect to the information at issue in this Request, PEF has kept confidential and has not publicly disclosed confidential company information such as these hedging terms, volumes and prices. Public disclosure of this information would undermine PEF's efforts to obtain competitive hedging contracts, as well as adversely impact the Company's competitive business interests. See Alexander Weintraub Affidavit, at ¶5 and 6. Further, the information contained in Exhibit SAW-7 is the subject of a Request for Confidential Classification submitted by PEF to the Commission on June 15, 2006. An order granting this request, Order No. PSC-06-0828-CFO-EI, was entered on October 6, 2006.

As indicated in the attached Justification Matrix, the information on page 12, line 1, and page 14, lines 5 through 10 of Alexander Weintraub's testimony, and page 5 of Exhibit SAW-16 attached thereto, includes competitive confidential business information of both PEF and third-party coal supply and transportation companies. With respect to the information at issue in this request, PEF has kept confidential and has not publicly disclosed confidential contract terms such as pricing or similar competitive information. To do otherwise would adversely impact the Company's competitive interests, and strict measures have been taken by the Company to ensure the confidentiality of this information. See Affidavit of Alexander Weintraub at ¶8-9. Further, the Company submitted a Request for Confidential Classification regarding the same information contained in this exhibit on July 31, 2006.

As indicated on the attached Justification Matrix, page 13, lines 13 through 14 of the testimony of Alexander Weintraub, contains proprietary confidential business information of

PEF, including information about compliance strategies for the years 2007, 2008, and 2009. This information has been kept confidential according to strict procedures undertaken by the Company, and if such information was disclosed to PEF's competitors, PEF's efforts to obtain competitive coal supply and transportation options that benefit both PEF and its ratepayers could be compromised. See Affidavit of Alexander Weintraub at ¶11. This information has been kept strictly confidential by PEF, and the Company requests it be accorded confidential status by the Commission. Id. at ¶12. Disclosure of this information would impair the efforts of the Company to contract for goods or services on favorable terms and, therefore, is exempt from disclosure. See Id.; §366.093(1) and (3)(d), F.S.

Lines 3-4 on page 29 of Alexander Weintraub's testimony contain a contractual expiration date that is deemed as competitive confidential business information of both PEF and third-party terminal companies with which PEF has contracts. PEF must assure the terms of these contracts remain confidential, and strict procedures are established and followed to maintain the confidentiality of these coal transloading contracts. See Affidavit of Alexander Weintraub at ¶15. The information requested to be kept confidential has not been publicly disclosed by the Company, as disclosure would harm PEF's ability to obtain competitive coal transloading contracts. See Affidavit of Alexander Weintraub at ¶15.

As shown by the attached Exhibit C, Justification Matrix, portions of Exhibits SAW-8, Exhibit SAW-9, Exhibit SAW-12, Exhibit SAW-13, and Exhibit SAW-15 contain information about PEF's cost/benefit analysis and comparison studies conducted regarding specific blends of PRB coal together with projected transportation costs. PEF requests this information to be accorded confidentiality, as public disclosure would harm PEF's competitive business interests. See Affidavit of Alexander Weintraub at ¶16. Disclosure of this information would



impair the efforts of the Company to contract for goods or services on favorable terms and, therefore, is exempt from disclosure. See Id.; §366.093(1) and (3)(d), F.S. The information in Exhibits SAW-8, SAW-9, SAW-12, SAW-13, and SAW-15 was originally the subject of a Request for Confidential Classification submitted by the Company on June 15, 2006. Order No. PSC-06-0828-CFO-EI was entered on October 6, 2006 granting this request.

Exhibit SAW-14 contains PEF's cost benefit analysis regarding specific plant modifications deemed necessary to either test burn or permanently burn PRB coal. See Affidavit of Alexander Weintraub at ¶18. Strict procedures are established and followed to maintain the confidentiality of this information by the Company and at no time since receiving the information has the Company publicly disclosed that information. See Affidavit of Alexander Weintraub at ¶19. Because the disclosure of such sensitive business information to the public would adversely impact PEF's competitive business interests and impact the efforts of the Company to contract for goods or services on favorable terms, it is exempt from disclosure. See Affidavit of Alexander Weintraub at ¶18; §366.093(1) and (3)(d), F.S. The Company requested confidential classification for the information contained in Exhibit SAW-14 on June 15, 2006. This request was granted in Order No. PSC-06-0828-CFO-EI on October 6, 2006.

#### **Donna Davis Written Testimony**

Portions of Donna Davis' written testimony should be afforded confidential treatment for the reasons set forth in the Affidavit of Donna Davis filed in support of this request for confidential classification, and for the following reasons.

Exhibit C, the Justification Matrix, shows that lines 2, 4 through 6, and 12 on page 50

of Donna Davis' testimony includes confidential business information in the form of proprietary business operating agreements with third parties. See Affidavit of Donna Davis at ¶5. Specifically, PEF has contractual requirements with these third parties to not disclose the proprietary business information contained in the operating agreements and, thereby, public disclosure of the information in question would be contrary to such confidentiality provisions and may impair PEF's efforts to contract favorably in future negotiation.

This information is considered confidential by PEF and has been treated as such, and strict measures have been adhered to in this regard. See Affidavit of Donna Davis at ¶6. Such information qualifies as confidential competitive business information and should be exempt from disclosure. See §366.093(1), F.S. Additionally, the Company notes that it submitted a Request for Confidential Classification to the Commission on December 18, 2006 as to the same information (requested by OPC in interrogatories in Docket No. 060658) contained in Donna Davis' testimony.

### Conclusion

These portions of written testimony and exhibits attached thereto fit the statutory definition of proprietary confidential business information under Section 366.093 and Rule 25-22.006, F.A.C., and that information should be afforded confidential classification. In support of this motion, PEF has enclosed the following:

(1) Exhibit A, a separate sealed envelope labeled "CONFIDENTIAL" containing one copy of each of the confidential documents for which PEF seeks confidential treatment. In this unredacted version, the confidential information is highlighted in yellow.

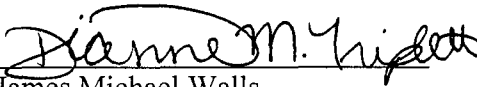
(2) Exhibit B is a package containing two copies of redacted versions of the documents for which confidential treatment is requested.

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

WHEREFORE, PEF respectfully requests that the portions of written testimony and exhibits attached thereto, described specifically in Exhibit A, be classified as confidential for the reasons set forth above.

RESPECTFULLY SUBMITTED this 16<sup>th</sup> day of January, 2007.

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**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the foregoing Progress Energy Florida, Inc.'s Request for Confidential Classification has been furnished via electronic mail and U.S. Mail this 16<sup>th</sup> day of January, 2007 to all parties of record as indicated below.

  
Attorney

**DOCKET NO. 060658-EI**  
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