

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Review of coal costs for Progress Energy Florida's Crystal River Units 4 and 5 for 2006 and 2007

Docket No. 070703-EI

Submitted for Filing: February 7, 2008

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

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Progress Energy Florida, Inc., ("PEF," "Progress Energy," or "Company"), pursuant to Section 366.093, Fla. Stats., and Rule 25-22.006, Florida Administrative Code (F.A.C.), submits this Request for Confidential Classification to portions of PEF's responses to the Office of Public Counsel's ("OPC's") First Request for Production of Documents (Nos. 1-13), specifically confidential and sensitive project analysis and contractual information. For the reasons set forth in PEF's justification matrix and affidavit in support of its request, PEF seeks confidential classification for portions of the documents responsive to these requests for production. In further support of this Request, PEF states:

**Justification for Confidential Classification**

Subsection 366.093(1), Florida Statutes, provides that "any records received by the

CMP \_\_\_\_\_ Commission which are shown and found by the Commission to be proprietary confidential  
COM \_\_\_\_\_ business information shall be kept confidential and shall be exempt from [the Public Records  
CTR \_\_\_\_\_  
ECR 1 Act]." §366.093(1), Fla. Stats. Proprietary confidential business information means information  
GCL 1 that is (i) intended to be and is treated as private confidential information by the Company, (ii)  
OPC \_\_\_\_\_ because disclosure of the information would cause harm, (iii) either to the Company's ratepayers  
RCA \_\_\_\_\_  
SCR \_\_\_\_\_ or the Company's business operation, and (iv) the information has not been voluntarily disclosed  
SGA \_\_\_\_\_ to the public. §366.093(3), Fla. Stats. Specifically, "information relating to competitive

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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.

### **Responses to OPC Requests 1, 2b, 2c, 3, 7, 8, 9, and 10**

Portions of the responses to OPC Requests 1, 2b, 2c, 3, 7, 8, 9, and 10 contain confidential contractual information regarding the purchase of coal and transportation services for that coal. Certain of these documents contain contractual quantities and pricing arrangements between PEF and third parties (fuel suppliers & transportation providers) that would adversely impact PEF’s competitive business interests if disclosed to the public. See Affidavit of Alexander (Sasha) Weintraub at ¶ 5. PEF must be able to assure coal suppliers and transportation companies that sensitive business information, such as the pricing and quantity terms of their contracts, will be kept confidential. See Affidavit of Weintraub at ¶ 6. Indeed, some of the contracts at issue contain confidentiality provisions that prohibit the disclosure of the terms of the contract to third parties. Id.

Specifically, the information at issue relates to competitively negotiated contractual data, such as quantity and pricing of fuel, and other contractual terms, the disclosure of which would impair the efforts of the Company to negotiate coal supply contracts and transportation contracts on favorable terms. See § 366.093(3)(d), Fla. Stats.; Affidavit of Weintraub 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. Without

PEF's measures to maintain the confidentiality of sensitive terms in contracts between PEF and coal suppliers and transportation contractors, the Company's efforts to obtain competitive coal supply and transportation contracts could be undermined. 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 Weintraub 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. PEF requests this information be granted confidential treatment by the Commission.

#### **Response to OPC Request 6**

Portions of PEF's responses to Request number 6 contain confidential and sensitive analysis done by the Company in considering whether to purchase certain equipment. These documents reflect the Company's internal strategies for evaluating bid responses. They also reflect the Company's forecasts for coal prices and transportation costs. See Affidavit of Weintraub at ¶ 7.

If this information was disclosed to the public, it could adversely impact PEF's competitive interests. Id. If such information was disclosed to PEF's competitors and/or other potential suppliers, PEF's efforts to obtain competitive coal supply and transportation options that provide economic value to both PEF and its ratepayers could be compromised by PEF's competitors and/or suppliers changing their offers, consumption, or purchasing behavior within the relevant markets. 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 Weintraub 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. PEF requests this information be granted confidential treatment by the Commission.

### **Conclusion**

Certain portions of PEF's responses to OPC's First Request for Production of Documents (Nos. 1-13) contain sensitive, confidential business information and fit the statutory definition of proprietary confidential business information under Section 366.093 Fla. Stats. and Rule 25-22.006, F.A.C., and that information should be afforded confidential classification. The following exhibits are included in support of this request:

(a) Sealed Composite Exhibit A is a package containing unredacted copies of all the documents for which PEF seeks confidential treatment. Composite Exhibit A is being submitted separately in a sealed package labeled "CONFIDENTIAL." In the unredacted version, the information asserted to be confidential is highlighted by yellow marker.

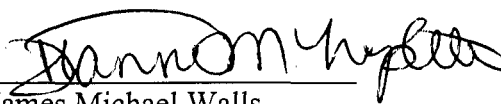
(b) Composite Exhibit B is a package containing two copies of redacted versions of the documents for which the Company requests confidential classification. The specific information for which confidential treatment is requested has been blocked out by opaque marker or other means.

(c) Exhibit C 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.

WHEREFORE, PEF respectfully requests that portions of the responses to OPC's First Request for Production of Documents (Nos. 1-13) be classified as confidential for the reasons set forth above.

Respectfully submitted,

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**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of Progress Energy Florida, Inc.'s Request for Confidential Classification in Docket No. 070703-EI has been furnished electronically and overnight delivery to the following this 14 day of February, 2008.

  
\_\_\_\_\_  
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# Public Service Commission

## ACKNOWLEDGEMENT

DATE: February 7, 2008

TO: James Walls/Carlton Fields

FROM: M. Sanders, Office of Commission Clerk

RE: Acknowledgement of Receipt of Confidential Filing

This will acknowledge receipt of a **CONFIDENTIAL DOCUMENT** filed in Docket Number 070703-EI or, if filed in an undocketed matter, concerning Responses to OPC 1<sup>st</sup> req PODs Nos. 1-13, and filed on behalf of Progress Energy Florida, Inc.. The document will be maintained in locked storage.

If you have any questions regarding this document, please contact Marguerite Lockard, Deputy Clerk, at (850) 413-6770.

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