

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

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In re: Petition for determination of need  
for Levy Units 1 and 2 nuclear power plants,  
by Progress Energy Florida, Inc.

Docket No. 080148-EI

Submitted for Filing: May 6, 2008

**PROGRESS ENERGY FLORIDA'S TENTH REQUEST FOR  
CONFIDENTIAL CLASSIFICATION REGARDING STAFF'S  
FIFTH SET OF INTERROGATORIES NOS. 76 AND REVISED 101**

Progress Energy Florida ("PEF" or the "Company"), pursuant to Section 366.093, Fla. Stats., and Rule 25-22.006, F.A.C., files this Request for Confidential Classification for PEF's responses to Staff's Fifth Set of Interrogatories, Number 76 and revised 101 as identified in Notice(s) of Intent filed May 20, 2008. Specifically, these responses contain sensitive, confidential land acquisition costs, contractual terms for nuclear goods and services, and confidential information regarding discussions with potential joint owners, that if disclosed would impact PEF's ability to contract on favorable terms in the future. Accordingly, PEF hereby submits the following.

**Basis for Confidential Classification**

OMP \_\_\_\_\_  
COM \_\_\_\_\_ Subsection 366.093(1), Florida Statutes, provides that "any records received by the  
CTR \_\_\_\_\_ Commission which are shown and found by the Commission to be proprietary confidential  
BOR 1 \_\_\_\_\_  
COL 1 \_\_\_\_\_ business information shall be kept confidential and shall be exempt from [the Public Records  
OPC \_\_\_\_\_ Act]." § 366.093(1), Fla. Stats. Proprietary confidential business information means  
HCA \_\_\_\_\_ information that is (i) intended to be and is treated as private confidential information by the  
COR \_\_\_\_\_  
SBA \_\_\_\_\_ Company, (ii) because disclosure of the information would cause harm, (iii) either to the  
SEC \_\_\_\_\_ Company's ratepayers or the Company's business operation, and (iv) the information has not

OTH 1 conf records

been voluntarily disclosed to the public. § 366.093(3), Fla. Stats. Specifically, subsection 366.093(3)(e) defines “information relating to competitive interests, the disclosure of which would impair the competitive business of the provider of the information,” as proprietary confidential business information. In addition, Section 366.093(3)(d) 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” as proprietary confidential business information.

#### **Staff's Fifth Interrogatories No. 76**

PEF's attachment to the response to Staff's Fifth Set of Interrogatories, number 76, should be afforded confidential treatment for the reasons set forth in the Affidavit of Dale Oliver filed in support of PEF's Request for Confidential Classification and for the following reasons. The attachment to this interrogatory reflects the Company's confidential cost projections regarding planned transmission projects, that would adversely impact PEF's competitive business interests if disclosed to the public. See Affidavit of Dale Oliver at ¶ 5. For example, if third party real property owners were to know the planned locations of new transmission line corridors, they may raise the asking price of their property, thus making it more expensive for PEF to purchase necessary easements and property for those transmission corridors. Id. Likewise, if third party contractors with whom PEF contracts to construct the transmission lines were to know PEF's specific transmission needs, they could increase the price of those goods and services. Id.

Upon receipt of this confidential information, and with its own confidential information, strict procedures are established and followed to maintain the confidentiality of the documents and information provided, including restricting access to those persons who need the information

to assist the Company, and restricting the number of, and access to the information. Id. at ¶ 6. At no time since receiving the information in question has the Company publicly disclosed that information. Id. The Company has treated and continues to treat the information at issue as confidential. Id.

### **Staff's Fifth Interrogatories No. 101**

PEF's revised response to Staff's Second Interrogatory number 101, should be afforded confidential treatment for the reasons set forth in the Affidavit of Jeff Lyash filed in support of PEF's Request for Confidential Classification and for the following reasons. Specifically, this response contains information regarding confidential draft agreements and correspondence with potential joint owners regarding negotiations for joint ownership in PEF's proposed nuclear units. Disclosure of this information would impair PEF's competitive business interests by inhibiting the Company's on-going negotiations with the potential joint owners. See Affidavit of Jeff Lyash at ¶ 5. For example, if third parties had knowledge of the status of these on-going negotiations, the potential joint owners with whom PEF is negotiating may not be as willing to share essential information with PEF. Id. This reduces PEF's leverage in negotiating with these potential joint owners and could affect the outcome of the negotiations to PEF's detriment. Id.

Disclosure of this information would also violate the terms of the confidentiality agreements PEF has entered into with each of the potential joint owners. See Affidavit of Jeff Lyash at ¶ 6. Specifically, the confidentiality agreements require PEF and the joint owners to maintain as confidential not only the terms of the agreement, but also all communication between PEF and the joint owners regarding the negotiations. Id. Therefore, this highly sensitive, confidential information must not be made publicly available.

Upon receipt of this confidential information, and with its own confidential information, strict procedures are established and followed to maintain the confidentiality of the documents and information provided, including restricting access to those persons who need the information to assist the Company, and restricting the number of, and access to the information. (Id. at ¶ 7). At no time since receiving the information in question has the Company publicly disclosed that information. Id. The Company has treated and continues to treat the information at issue as confidential. Id.

### Conclusion

The competitive, confidential information at issue in this request fits the statutory definition of proprietary confidential business information under Section 366.093 and Rule 25-22.006, F.A.C. Separate sealed envelopes containing one copy of the confidential exhibits for which PEF intends to request confidential classification with the appropriate section, pages, or lines containing the confidential information highlighted is enclosed herewith as Attachment “A.” **This information should be accorded confidential treatment pending a decision on PEF’s request by the Florida Public Service Commission.**

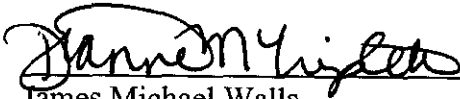
Additionally, two copies of the confidential exhibits with the information that PEF intends to request confidential classification redacted by section page, or lines, are also included herewith as Attachment “B.”

Attachment “C” hereto contains a justification matrix supporting PEF’s request for confidential classification of the highlighted information contained in Attachment A.

WHEREFORE, PEF respectfully requests that the responses to Staff’s Fifth Set of Interrogatories Nos. 76 and revised 101, described specifically in Attachment C, be classified as confidential for the reasons set forth above.


Respectfully submitted this \_\_\_\_\_ day of May, 2008.

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**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished via electronic and U.S. Mail this 4<sup>th</sup> day of ~~May~~<sup>June</sup>, 2008 to all parties of record as indicated below.

  
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**CONFIDENTIAL**

**Public Service Commission**

**ACKNOWLEDGEMENT**

**DATE:** June 6, 2008

**TO:** Dianne Triplett, Carlton Fields

**FROM:** Ruth Nettles, Office of Commission Clerk

**RE:** Acknowledgement of Receipt of Confidential Filing

This will acknowledge receipt of a **CONFIDENTIAL DOCUMENT** filed in Docket Number 080148 or, if filed in an undocketed matter, concerning responses to staff's 5<sup>th</sup> set of Interrogatories, No. 76 and Revised 101, and filed on behalf of Progress Energy. 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.

DOCUMENT NUMBER-DATE  
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