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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

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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

COMMISSION
CLERK

Submitted for Filing: February 13, 2009

**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 of confidential portions of Office of Public Counsel ("OPC") expert witness, David J. Putman's Exhibit No. __ (DJP-8) attached to his direct testimony. This exhibit contains sensitive, confidential business information, some of which have previously been produced in discovery by PEF and for which PEF has previously requested confidential classification. For the reasons set forth in those prior requests for confidential classification and for the reasons that will be set forth in PEF's justification matrix in support of its request, PEF will seek confidential classification for the information at issue in Exhibit No. __ (DJP-8) attached to Mr. Putman's direct testimony filed February 2, 2009 in Docket 070703-EI.

In support of this Request, PEF states:

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

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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 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), F.S. 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), F.S.

The aforementioned Exhibit No. __ (DJP-8) attached to the testimony of OPC’s expert witness, David J. Putman, should be afforded confidential treatment because portions of the exhibit contain proprietary confidential business information relating to PEF’s contractual arrangements and PEF’s competitive interests. Public disclosure of the information in question would compromise PEF’s competitive business interests by disclosing sensitive contractual and business information and would undermine PEF’s efforts to contract for goods and services on favorable terms.

Pages 1 and 2 of Exhibit No. __ (DJP-8) to David J. Putman’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 and transportation companies) that

would adversely impact PEF's competitive business interests if disclosed to the public. The information for which PEF requests confidential classification is "proprietary confidential business information" within the meaning of Section 366.093(3), F.S. Specifically, the information at issue relates to competitively negotiated contractual data, such as pricing and quantities of coal, and other contractual terms, the disclosure of which would impair the efforts of the Company or its affiliates to negotiate coal supply contracts and transportation contracts on favorable terms. See § 366.093(3)(d), F.S.; Affidavit of Sasha Weintraub at ¶ 5. 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 Sasha Weintraub at ¶ 5.

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 Sasha Weintraub at ¶ 6. 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 February 7, 2008. Document No. 06920-08 was entered on August 7, 2008 recommending PEF's request. An Order has not been issued to date.

Conclusion

Certain portions of OPC's expert witness, David J. Putman's Exhibit No. __ (DJP-8) attached to his direct testimony contain sensitive confidential business information and fit the statutory definition of proprietary confidential business information under Section 366.093, F.S. 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 exhibits with this request:

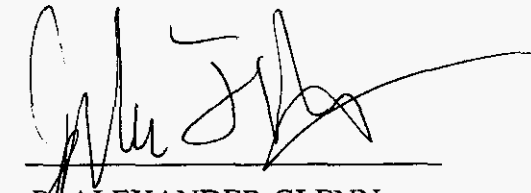
(a) A separate sealed envelope labeled "Exhibit A" is a package containing unredacted copies of all the documents for which PEF seeks confidential treatment. Exhibit A is being submitted separately in a sealed envelope labeled "CONFIDENTIAL." In the unredacted versions, the information asserted to be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

(b) 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 the information described specifically in Exhibit C 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.

Respectfully submitted this 17th day of February, 2009.

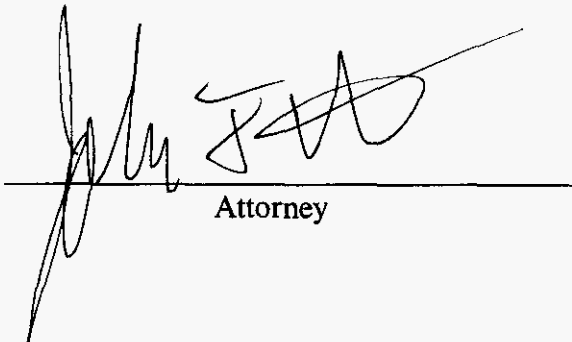


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CERTIFICATE OF SERVICE

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 via overnight delivery to the following this 17th day of February, 2009.



Attorney

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Exhibit A

“CONFIDENTIAL”

STATE OF FLORIDA

COMMISSIONERS:
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LISA POLAK EDGAR
KATRINA J. McMURRIAN
NANCY ARGENZIANO
NATHAN A. SKOP



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COMMISSION CLERK
(850) 413-6770

Public Service Commission

ACKNOWLEDGEMENT

DATE: February 13, 2009

TO: Alexander Glenn, Progress Energy

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 070703 or, if filed in an undocketed matter, concerning portions of OPC's expert witness, David J. Putman's Exhibit No. (DJP-8), attached to his direct testimony, 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.

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