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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

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In re: Petition for increase in rates by
Progress Energy Florida, Inc.

Docket No. 090079-EI COMMISSION
Submitted for Filing: May 12, 2009

**PROGRESS ENERGY FLORIDA'S THIRD REQUEST FOR
CONFIDENTIAL CLASSIFICATION**

Progress Energy Florida ("PEF" or the "Company"), pursuant to Section 366.093, Fla. Stat., and Rule 25-22.006(3), F.A.C., requests confidential classification of certain documents produced in response to Staff's Fourth Request for Production of Documents. The documents being produced in response to Staff's Fourth Request for Production, requests 12 and 13, contain confidential contractual data the disclosure of which could seriously impair the Company's competitive business interests and violate the contractual confidentiality agreement pertaining to such information. The unredacted documents discussed above are being filed under seal with the Commission as Appendix A on a confidential basis to keep the competitive business information in those documents confidential.

The Confidentiality of the Documents at Issue

Section 366.093(1), Florida Statutes, 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), Fla. Stat. 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), Fla. Stat. Specifically, "information concerning bids or other

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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” is defined as proprietary confidential business information. § 366.093(3)(d), Fla. Stat. Additionally, 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.

Certain documents being produced in response to Staff’s Fourth Request for Production of Documents contain proprietary information obtained from a third party pursuant to a contractual confidentiality agreement, the disclosure of which would compromise the Company’s competitive business interests. See Affidavit of Peter Toomey at ¶3. Disclosure of this proprietary and confidential information could adversely affect the Company’s ability to secure such goods and services at favorable terms in the future. Furthermore, disclosure of this information could affect the behavior of such third party vendors when offering prices and contractual terms for these goods and services, and possibly the Company’s ultimate ability to obtain the necessary information. Finally, PEF is required to maintain this contractual information as confidential pursuant to the terms of the contracts with its third party vendors. See id. at ¶4; § 366.093(3)(d), Fla. Stat.

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 Toomey at ¶ 5. At no time has the Company publicly disclosed the confidential information or documents at issue; PEF 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

The competitive, confidential information at issue in this request fits the statutory definition of proprietary confidential business information under Section 366.093, Florida Statutes, and Rule 25-22.006, F.A.C., and therefore that information should be afforded confidential classification. In support of this motion, PEF has enclosed the following:

(1) A separate, sealed envelope containing one copy of the confidential Appendix A to PEF's Request for Confidential Classification for which PEF intends to request confidential classification with the appropriate section, pages, or lines containing the confidential information highlighted. **This information should be accorded confidential treatment pending a decision on PEF's request by the Florida Public Service Commission;**

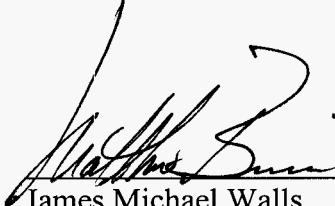
(2) Two copies of the documents with the information for which PEF intends to request confidential classification redacted by section, page, or lines where appropriate as Appendix B; and,

(3) A justification matrix supporting PEF's request for confidential classification of the highlighted information contained in confidential Appendix A, as Appendix C.

WHEREFORE, PEF respectfully requests that the redacted portions of the above-referenced discovery responses be classified as confidential for the reasons set forth above.

Respectfully submitted this 12th day of May, 2009.

R. Alexander Glenn
General Counsel



James Michael Walls
Florida Bar No. 0706242

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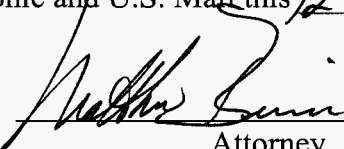
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY a true and correct copy of the foregoing has been furnished to counsel and parties of record as indicated below via electronic and U.S. Mail this 12th day of May, 2009.



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Public Service Commission

ACKNOWLEDGEMENT

DATE: May 12, 2009

TO: Michael Walls, 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 090079 or, if filed in an undocketed matter, concerning certain documents produced in response to staff's 4th Request for PODs, Requests 12 and 13, and filed on behalf of Progress Energy Florida. 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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