

FPSC-COMMISSION CLERK

### BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Progress Energy Florida, Inc.'s	
petition for approval of long-term fuel )	Docket No.: 041414-EI
supply and transportation contracts for )	
Hines Unit 4 and additional system	
supply and transportation.	Submitted for Filing: January 31, 2005

# PROGRESS ENERGY FLORIDA'S SECOND REQUEST FOR CONFIDENTIAL CLASSIFICATION

Progress Energy Florida ("PEF" or the "Company"), pursuant to Section 366.093, <u>Fla. Stats.</u>, and Rule 25-22.006, F.A.C., files this Request for Confidential Classification of PEF's responses to Commission Staff's First Set of Interrogatories to Progress Energy Florida, Inc. (Nos. 1-51), and PEF's responses to Staff's First Request for Production of Documents to Progress Energy Florida, Inc. (Nos. 1-4). PEF's responses to Staff's Interrogatory Numbers 1, 8, 9, 11, 16, 17-27, 30-35, 39, 40, 42, and 44-48 contain details and facts regarding confidential, contractual terms between PEF and potential fuel suppliers. PEF's responses to Staff's Request for Production, Requests 1-4 contain copies of confidential contract terms, proposals, and a business analysis plan that contains confidential information regarding contracts and contract proposals between PEF and fuel suppliers. Accordingly, PEF hereby submits the following.

CMP .	Basis for Confidential Classification
COM	
CTR	Subsection 366.093(1), Florida Statutes, provides that "any records received by the
ECR	Commission which are shown and found by the Commission to be proprietary confidential
GCL	business information shall be kept confidential and shall be exempt from [the Public Records
OPC	——————————————————————————————————————
MMS	Act]." § 366.093(1), Fla. Stats. Proprietary confidential business information means
RCA	— information that is (i) intended to be and is treated as private confidential information by the
SCR	
SEC	DOCUMENT NUMBER DATE
OTH	
	records

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. Stats. Specifically, "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" is defined as proprietary confidential business information. § 366.093(3)(d), Fla. Stats.

## Responses to Interrogatories 1, 8, 9, 11, 16, 17-27, 30-35, 39, 40, 42, and 44-48 and Document Requests 1-4

Portions of PEF's responses to Staff's Interrogatories Numbers 1, 8, 9, 11, 16, 17-27, 30-35, 39, 40, 42, and 44-48 and Document Requests 1-4 should be afforded confidential treatment for the reasons set forth in the Affidavit of Pamela R. Murphy filed in support of PEF's Second Request for Confidential Classification and for the following reasons. Staff's Interrogatories Numbers 1, 8, 9, 11, 16, 17-27, 30-35, 39, 40, 42, and 44-48, call for information relating to confidential contractual terms and contractual proposals between PEF and fuel suppliers. Staff's Document Requests 1-4, call for confidential contracts and proposals between PEF and potential fuel suppliers, as well as PEF's analysis of those contracts and proposals. PEF is requesting confidential classification of its responses because public disclosure of the documents and information in question would impair PEF's ability to contract for services such as fuel supply on competitive and favorable terms.

PEF negotiates with potential fuel suppliers and transportation companies to obtain competitive contracts for fuel options that provide economic value to PEF and its ratepayers.

(Affidavit of Pam Murphy at ¶5). In order to obtain such contracts, however, PEF must be able to assure fuel suppliers and transportation companies that sensitive business information, such as

the quantity and pricing terms of their contracts, will be kept confidential. Id. PEF has kept confidential and has not publicly disclosed confidential contract terms such as quantity and pricing. 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 possession of potential competitors. Id. Faced with that risk, persons or companies who otherwise would contract with PEF might decide not to do so if PEF did not keep those terms of their contracts confidential. Id. Without PEF's measures to maintain the confidentiality of sensitive terms in contracts between PEF and fuel suppliers and transportation contractors, the Company's efforts to obtain competitive fuel supply and transportation contracts would be undermined. Id.

Additionally, the disclosure of confidential information in PEF's fuel supply and transportation contracts, proposals, and business analysis plans would adversely impact PEF's competitive business interests. (Affidavit of Pam Murphy at ¶6). If such information was disclosed to PEF's competitors, PEF's efforts to obtain competitive fuel supply and transportation options that provide economic value to both PEF and its ratepayers would be compromised. Id.

Upon receipt of confidential information from fuel suppliers and transportation companies, and with its own confidential information, strict procedures are established and followed to maintain the confidentiality of the terms 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 and contracts. (Affidavit of Pam Murphy at ¶7). At no time since receiving the contracts and information in question has the

Company publicly disclosed that information or contracts. <u>Id</u>. The Company has treated and continues to treat the information and contracts at issue as confidential. Id.

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Furthermore, in PSC Docket No. 040817-EI, the Commission granted confidential classification for the same documents being produced in this matter that are responsive to Staff's First Request for Production of Documents, Requests 1-4. See PSC Order No. PSC-04-1061-CFO-EI. Accordingly, PEF has produced herewith redacted and highlighted copies of the same documents that were afforded confidential classification in Docket No. 040817-EI.

#### Conclusion

The details, facts, and documents regarding PEF's contracts and proposals with potential fuel suppliers 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). 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 confidential responses 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 portions of its responses to Staff's Interrogatories, Numbers 1, 8, 9, 11, 16, 17-27, 30-35, 39, 40, 42, and 44-48, and its responses to Staff's First Request for Production of Documents, Requests 1-4, be classified as confidential for the reasons set forth above.

Respectfully submitted this 31st day of January, 2005.

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#### **CERTIFICATE OF FILING**

I HEREBY CERTIFY that a true and correct copy of the foregoing has been filed electronically without attachments and via Federal Express with attachments with the Florida Public Service Commission, 2540 Shumard Oak Boulevard, Tallahassee, FL 32399-0850, this 31st day of January, 2005.

Attorney

### ATTACHMENT C

	PEF 000016 all information on page;	
	PEF 000017 all information on page;	
	PEF 000018 all information on page;	
	PEF 000019 all information on page;	
	PEF 000020 all information on page;	
	PEF 000021 all information on page;	
	PEF 000022 all information on page;	
	PEF 000023 all information on page;	
	PEF 000024 all information on page;	
	PEF 000025 all information on page;	
	PEF 000026 all information on page;	
	PEF 000027 all information on page;	
	PEF 000028 all information on page;	
	PEF 000029 all information on page	
PEF's Response to Staff's First Request for Production of Documents to Progress Energy Florida, Inc. No. 2	PEF 00030 all information listed under MDQ and Rate subheadings	§ 366.093(3)(d) PEF's response contains confidential details of PEF's negotiations and contracts
Emergy Florida, file. 140. 2	PEF00031 item no. 5, third	with fuel suppliers, the

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	word from end; line 6, first line, seventh word	disclosure of which would impair the utility's efforts to contract for such services on favorable terms.
PEF's Response to Staff's First Request for Production of Documents to Progress Energy Florida, Inc. No. 4	PEF 000032 Non-binding RFP identification, all names in subject paragraph, all information after subheadings; PEF 000033 all information after subheadings "proposals;"	NOTE: This document was granted confidential classification in PSC Docket No. 040817-EI, Order No. PSC-04-1061-CFO-EI. § 366.093(3)(d) PEF's response contains confidential details of PEF's negotiations and contracts with fuel suppliers, the disclosure of which would impair the utility's efforts to
	PEF 000034 "to," "cc" and attachment;	contract for such services on favorable terms.
	PEF 000035 "to" and "cc" lines, and attachment;	NOTE: These documents were granted confidential classification in PSC Docket No. 040817-EI, Order No.
	PEF 000036 "to" and "cc" line, and attachment;	PSC-04-1061-CFO-EI.
	PEF 000037 Non-binding RFP identification, names in subject line, all information after subheadings;	
	PEF 000038 RFP identification in paragraph under proposals;	
	PEF 000039 "to," "cc" and attachment;	
	PEF 000040 "to" and "cc" line, and attachment;	
	PEF 000041 "to," "cc" and attachment;	
	PEF 000042 "to," "cc" and	

. .

attachment;

PEF 000043 "to," cc" and attachment;

PEF 000044 "from," "cc," document names, name in first sentence and all information after first sentence;

PEF 000045 header and all words after introduction;

PEF 000046 header, all names in title and all information after subheadings;

PEF 000047 all information after subheadings;

PEF 000048 header and all information after introduction;

PEF 000049 header, all names in title and all information after subheadings;

PEF 000050 "from," "cc" and subject line, signature block;

PEF 000051 RFP identification in subject line, all information after subheadings;

PEF 000052 all information after subheadings;

PEF 000053 "from" line, document identification name, all names in first paragraph, signature block, and "to" and "cc" line in embedded e-mail;

PEF 000054 header, name in "re:" line, all information after

subheadings;

PEF 000055 all information after subheadings;

PEF 000056 all information after subheadings;

PEF 000057 subject line, document description, signature line;

PEF 000058 "from" and subject line in embedded email and all text after word "John" in embedded e-mail;

PEF 000059 header, RFP identification and all words after "John" in introduction;

PEF 000060 all information after subheadings;

PEF 000061-62 RFP identification, subject line, first paragraph and all information after subheadings; "nominations" through "gas quality," RFP identification in subheadings proposal;

PEF 000063 "to" and subject line, salutation and document identification name:

PEF 000064 "to" line, subject line, salutation and document identification name;

PEF 000065 "to" line, subject, salutation and document identification name;

PEF 000066 "from," "cc" and subject line, first paragraph,

fourth word and signature line;

PEF 000067 RFP identification and subject line, first paragraph, all information after subheadings;

PEF 000068 all information after subheadings;

PEF 000069 "from" line, subject, first paragraph, first word, second line, third and fourth words, signature;

PEF 000070-72 headers, RFP identification in "re:" line and all text after subheadings;

PEF 000073 all information on page;

PEF 000074 all information on page;

PEF 000075 "from" and subject lines, names in first sentence, signature block;

PEF 000076 header, RFP identification and all text after introduction;

PEF 000077 all information on page;

PEF 000078 all information on page;

PEF 000079 all information on page;

PEF 000080 all information on page;

PEF 000081 footer at bottom

of page;

PEF 000082 "from" line, subject line, names in first paragraph, signature block;

PEF 000083 header, RFP identification and "re:" line, all information after salutation, all terms after subheadings;

PEF 000084-85 all terms after subheadings;

PEF 000086 all information on page;

PEF 000087 header, RFP identification and all terms after subheadings;

PEF 000088-89 all terms after subheadings;

PEF 000090 all information on page;

PEF 000091 header, RFP identification in "re:" line, all terms after subheadings;

PEF 000092-93 all terms after subheadings;

PEF 000094 all information on page;

PEF 000095 all information on page;

PEF 000096 header, RFP identification and all words after introduction;

PEF 000097 all information

on page;

PEF 000098 header, RFP identification in "re:" line, all terms after subheadings;

PEF 000099 all terms after subheadings and RFP identification in subheadings proposal;

PEF 000100 "to" and subject line, all names in salutation and attachment

PEF 000101 "to," "cc" and subject line, salutation and attachment;

PEF 000102 "to", subject line and attachment name,

PEF 000103 all terms after subheadings and introduction;

PEF 000104 all terms after subheadings;

PEF 000105 all terms after subheadings and signature block;

PEF 000106 all terms after subheadings and names in introductory paragraph;

PEF 000107-111 all terms after subheadings;

PEF 000112-113 headings, RFP number, first paragraph, second line, first six words and tenth and eleventh words, second paragraph, third line ninth and tenth words, third paragraph, first line sixth word and entire paragraph following eighth word, third paragraph in its entirety and signature block

PEF 000114 names in subject line, all text after subheadings names in last paragraph

PEF 000116 letterhead, RFP description, all text in first sentence after word "is" and before "response", sixth line, last four words, all names in signature block, copies and footer at bottom of page;

PEF 000117 heading and RFP description, description of parties, all terms after subheadings on remainder of page, all names from preliminary notional proposal footer paragraph;

PEF 000118 all text after subparagraph, all names and preliminary notional proposal, footer paragraph at bottom of page;

PEF 000119 all text after subparagraph, all names in preliminary notional proposal, footer paragraph at bottom of page;

PEF 000120 all text after subparagraph, all names and preliminary notional proposal, footer paragraph at bottom of page;

PEF 000121 all text after subparagraph, all names and preliminary notional proposal,

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	footer paragraph at bottom of page	
PEF's Response to Staff's First Set of Interrogatories to Progress Energy Florida, Inc., No. 1	Second line, second to and last word, entire third and fourth lines	§ 366.093(3)(d) PEF's response contains confidential details of PEF's negotiations and contracts with fuel suppliers, the disclosure of which would impair the utility's efforts to contract for such services on favorable terms.
PEF's Response to Staff's First Set of Interrogatories to Progress Energy Florida, Inc., No. 8	First Line, last six words; Second line, first eleven words; entire section (1); and entire section (2)	§ 366.093(3)(d) PEF's response contains confidential details of PEF's negotiations and contracts with fuel suppliers, the disclosure of which would impair the utility's efforts to contract for such services on favorable terms.
PEF's Response to Staff's First Set of Interrogatories to Progress Energy Florida, Inc., No. 9	Entire paragraph following the word "provision" in the first line	§ 366.093(3)(d) PEF's response contains confidential details of PEF's negotiations and contracts with fuel suppliers, the disclosure of which would impair the utility's efforts to contract for such services on favorable terms.
PEF's Response to Staff's First Set of Interrogatories to Progress Energy Florida, Inc., No. 11	Entire first paragraph following the word "for" in the first line	§ 366.093(3)(d) PEF's response contains confidential details of PEF's negotiations and contracts with fuel suppliers, the disclosure of which would impair the utility's efforts to contract for such services on favorable terms.
PEF's Response to Staff's	Last three words of answer	§ 366.093(3)(d)

First Set of Interrogatories to Progress Energy Florida, Inc., No. 16	line	PEF's response contains confidential details of PEF's negotiations and contracts with fuel suppliers, the disclosure of which would impair the utility's efforts to contract for such services on favorable terms.
PEF's Response to Staff's First Set of Interrogatories to Progress Energy Florida, Inc., No. 17	All information in charts under subheadings Transportation, Capital Investment and Supply	§ 366.093(3)(d) PEF's response contains confidential details of PEF's negotiations and contracts with fuel suppliers, the disclosure of which would impair the utility's efforts to contract for such services on favorable terms.
PEF's Response to Staff's First Set of Interrogatories to Progress Energy Florida, Inc., No. 18	All information in charts under subheadings Transportation, Capital Investment and Supply	§ 366.093(3)(d) PEF's response contains confidential details of PEF's negotiations and contracts with fuel suppliers, the disclosure of which would impair the utility's efforts to contract for such services on favorable terms.
PEF's Response to Staff's First Set of Interrogatories to Progress Energy Florida, Inc., No. 19	All information in charts under subheadings Transportation, Capital Investment and Supply	§ 366.093(3)(d) PEF's response contains confidential details of PEF's negotiations and contracts with fuel suppliers, the disclosure of which would impair the utility's efforts to contract for such services on favorable terms.
PEF's Response to Staff's First Set of Interrogatories to Progress Energy Florida, Inc., No. 20	All information in charts under subheadings Transportation, Supply, Capital Investment, and O&M	§ 366.093(3)(d) PEF's response contains confidential details of PEF's negotiations and contracts with fuel suppliers, the disclosure of which would impair the utility's efforts to

		contract for such services on favorable terms.
PEF's Response to Staff's First Set of Interrogatories to Progress Energy Florida, Inc., No. 21	All information in charts under subheadings Transportation, Supply, Capital Investment, and O&M	§ 366.093(3)(d) PEF's response contains confidential details of PEF's negotiations and contracts with fuel suppliers, the disclosure of which would impair the utility's efforts to contract for such services on favorable terms.
PEF's Response to Staff's First Set of Interrogatories to Progress Energy Florida, Inc., No. 22	All information in charts under subheadings Transportation, Supply, Capital Investment, and O&M	§ 366.093(3)(d) PEF's response contains confidential details of PEF's negotiations and contracts with fuel suppliers, the disclosure of which would impair the utility's efforts to contract for such services on favorable terms.
PEF's Response to Staff's First Set of Interrogatories to Progress Energy Florida, Inc., No. 23	All information in charts under subheadings Transportation, Supply, Capital Investment, and O&M	§ 366.093(3)(d) PEF's response contains confidential details of PEF's negotiations and contracts with fuel suppliers, the disclosure of which would impair the utility's efforts to contract for such services on favorable terms.
PEF's Response to Staff's First Set of Interrogatories to Progress Energy Florida, Inc., No. 24	All information in charts under subheadings Transportation, Supply, Capital Investment, and O&M	§ 366.093(3)(d) PEF's response contains confidential details of PEF's negotiations and contracts with fuel suppliers, the disclosure of which would impair the utility's efforts to contract for such services on favorable terms.
PEF's Response to Staff's First Set of Interrogatories to Progress Energy Florida, Inc.,	All information in charts under subheadings Transportation, Supply,	§ 366.093(3)(d) PEF's response contains confidential details of PEF's

No. 25	Capital Investment, and O&M	negotiations and contracts with fuel suppliers, the disclosure of which would impair the utility's efforts to contract for such services on favorable terms.
PEF's Response to Staff's First Set of Interrogatories to Progress Energy Florida, Inc., No. 26	Column 1 and Column 2 of table; second paragraph, line 4, second word; line 5, seventh word, line 6, all words following "for", line 7, ninth, tenth and eleventh words, line 8, last three words, line 9, first two and last words, entire line 10	§ 366.093(3)(d) PEF's response contains confidential details of PEF's negotiations and contracts with fuel suppliers, the disclosure of which would impair the utility's efforts to contract for such services on favorable terms.
PEF's Response to Staff's First Set of Interrogatories to Progress Energy Florida, Inc., No. 26	Company names in chart under sub-heading Alternative; all information under subheadings Summer, Winter, Commodity and Fuel	§ 366.093(3)(d) PEF's response contains confidential details of PEF's negotiations and contracts with fuel suppliers, the disclosure of which would impair the utility's efforts to contract for such services on favorable terms.
PEF's Response to Staff's First Set of Interrogatories to Progress Energy Florida, Inc., No. 30	All information listed under sub-headings Transportation, Capital Investment and Supply	§ 366.093(3)(d) PEF's response contains confidential details of PEF's negotiations and contracts with fuel suppliers, the disclosure of which would impair the utility's efforts to contract for such services on favorable terms.
PEF's Response to Staff's First Set of Interrogatories to Progress Energy Florida, Inc., No. 31	All information listed under sub-headings Transportation, Capital Investment and Supply	§ 366.093(3)(d) PEF's response contains confidential details of PEF's negotiations and contracts with fuel suppliers, the disclosure of which would impair the utility's efforts to contract for such services on favorable terms.

PEF's Response to Staff's First Set of Interrogatories to Progress Energy Florida, Inc., No. 32	All information listed under sub-headings Transportation, Supply, Capital and O&M	§ 366.093(3)(d) PEF's response contains confidential details of PEF's negotiations and contracts with fuel suppliers, the disclosure of which would impair the utility's efforts to contract for such services on favorable terms.
PEF's Response to Staff's First Set of Interrogatories to Progress Energy Florida, Inc., No. 33	All information listed under sub-headings Transportation, Supply, Capital and O&M	§ 366.093(3)(d) PEF's response contains confidential details of PEF's negotiations and contracts with fuel suppliers, the disclosure of which would impair the utility's efforts to contract for such services on favorable terms.
PEF's Response to Staff's First Set of Interrogatories to Progress Energy Florida, Inc., No. 33	All information listed under sub-headings Transportation, Supply, Capital and O&M	§ 366.093(3)(d) PEF's response contains confidential details of PEF's negotiations and contracts with fuel suppliers, the disclosure of which would impair the utility's efforts to contract for such services on favorable terms.
PEF's Response to Staff's First Set of Interrogatories to Progress Energy Florida, Inc., No. 34	All information listed under sub-headings Transportation, Supply, Capital and O&M	§ 366.093(3)(d) PEF's response contains confidential details of PEF's negotiations and contracts with fuel suppliers, the disclosure of which would impair the utility's efforts to contract for such services on favorable terms.
PEF's Response to Staff's First Set of Interrogatories to Progress Energy Florida, Inc., No. 39	All information following the word "was"	§ 366.093(3)(d) PEF's response contains confidential details of PEF's negotiations and contracts with fuel suppliers, the

		disclosure of which would impair the utility's efforts to contract for such services on favorable terms.
PEF's Response to Staff's First Set of Interrogatories to Progress Energy Florida, Inc., No. 40	Sixth Line, last word; seventh line, first word	§ 366.093(3)(d) PEF's response contains confidential details of PEF's negotiations and contracts with fuel suppliers, the disclosure of which would impair the utility's efforts to contract for such services on favorable terms.
PEF's Response to Staff's First Set of Interrogatories to Progress Energy Florida, Inc., No. 42	All information following the first two words	§ 366.093(3)(d) PEF's response contains confidential details of PEF's negotiations and contracts with fuel suppliers, the disclosure of which would impair the utility's efforts to contract for such services on favorable terms.
PEF's Response to Staff's First Set of Interrogatories to Progress Energy Florida, Inc., No. 44	All information in paragraph following Answer:	§ 366.093(3)(d) PEF's response contains confidential details of PEF's negotiations and contracts with fuel suppliers, the disclosure of which would impair the utility's efforts to contract for such services on favorable terms.
PEF's Response to Staff's First Set of Interrogatories to Progress Energy Florida, Inc., No. 45	All information in paragraph following Answer:	§ 366.093(3)(d) PEF's response contains confidential details of PEF's negotiations and contracts with fuel suppliers, the disclosure of which would impair the utility's efforts to contract for such services on favorable terms.
PEF's Response to Staff's	Second page, paragraph under	§ 366.093(3)(d)

First Set of Interrogatories to Progress Energy Florida, Inc., No. 46	heading C. Operating Flexibility, eighth line, last two words; paragraph under D Create Value for Additional Generation Sites, sixth line, sixth and seventh word	PEF's response contains confidential details of PEF's negotiations and contracts with fuel suppliers, the disclosure of which would impair the utility's efforts to contract for such services on favorable terms.
PEF's Response to Staff's First Set of Interrogatories to Progress Energy Florida, Inc., No. 47	Paragraph following Answer: first line, fifth and sixth word, seventh line, sixth, seventh and eighth word, eighth line, eighth word, ninth line, fifth and sixth word	§ 366.093(3)(d) PEF's response contains confidential details of PEF's negotiations and contracts with fuel suppliers, the disclosure of which would impair the utility's efforts to contract for such services on favorable terms.
PEF's Response to Staff's First Set of Interrogatories to Progress Energy Florida, Inc., No. 48	Entire second sentence in Answer paragraph	§ 366.093(3)(d) PEF's response contains confidential details of PEF's negotiations and contracts with fuel suppliers, the disclosure of which would impair the utility's efforts to contract for such services on favorable terms.