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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.

COMMISSION CLERK Docket No. 090075-11 Submitted for Filing August 13, 2009

PROGRESS ENERGY FLORIDA'S SEVENTH REQUEST FOR CONFIDENTIAL CLASSIFICATION REGARDING THE DOCUMENTS PRODUCED IN RESPONSE TO FIPUG'S FOURTH REQUEST FOR PRODUCTION OF DOCUMENTS (NOS. 44-46)

Progress Energy Florida, Inc. ("PEF" or the "Company"), pursuant to Section 366.093, Florida Statutes, and Rule 25-22.006(3), Florida Administrative Code, requests confidential classification of the documents produced in response to Florida Industrial Power Users Group's ("FIPUG") Fourth Request for Production of Documents (Nos. 44-46), specifically request number 44. The information provided in response to this request contains confidential contractual information, as well as other confidential information relating to the Company's competitive interests, the release of which would harm the Company's competitive business interests, as well as violate contractual confidentiality provisions. PEF considers this information proprietary and confidential, does not share it with the public, and has at all times maintained its confidentiality.

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5 With respect to the confidential information at issue, PEF filed its Second Notice of Intent to Request Confidential Classification on July 23rd, 2009. Therefore, pursuant to Rule 25-22.006(3), Florida Administrative Code, this request is timely. PEF hereby submits the following in support of its confidentiality request:

BASIS FOR CONFIDENTIAL CLASSIFICATION

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 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, section 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.

The documents in question, as explained below and in the supporting affidavits of Bruce Barkley, Michael Rib, and Jon Franke, contain confidential competitive business information regarding, *inter alia*, the Company’s forecasted Spot and Hedge process for Natural Gas and Oil, Coal Cost forecasts, CT Maintenance Plans, Peaking Unit Variable Operation Costs, Steam Unit Operating and Management Rates, as well as the Nuclear Outage Schedule for Crystal River Unit 3 (“CR3”). The disclosure of this information would impair PEF’s efforts to contract for goods and services on favorable terms and otherwise damage the Company’s competitive business interests. Specifically, if third parties, such as suppliers and/or competitors, were aware of PEF’s forecasted prices for certain commodities, they would be able to artificially inflate their

prices to reach the upper bounds of such forecasts. See Affidavit of Barkley, ¶4. Furthermore, certain documents being produced include contractually agreed to pricing arrangements, the disclosure of which would violate contractual confidentiality provisions. These documents also contain input information the Company collects from various sources in order to perform the necessary planning functions. See Affidavit of Rib, ¶ 4. Additionally, the documents include information regarding the scheduled CR3 generator outage during which the Extended Power Uprate will occur. During this outage, the Company will be required to purchase the power necessary to serve its customers. If other parties were made aware of the timing and expected length of this outage, they would be in a position to take advantage of that information to the detriment of the Company and its ratepayers. For example, they may offer PEF less competitive contractual terms in future contractual negotiations or be in position to negotiate contracts less favorable to the Company and its customers. See Affidavit of Franke, ¶4. Accordingly, these documents should be accorded confidential treatment pursuant to section 366.093(3)(d) and (e), Florida Statutes.

PEF has kept confidential and has not publicly disclosed the confidential information and documents at issue here. See Affidavit of Franke, ¶5; Affidavit of Barkley, ¶5; Affidavit of Rib, ¶5. Absent such measures, PEF would run the risk that sensitive business information regarding the CR3 EPU and LNP EPC would be made to available to the public and, as a result, other parties could change their position in future negotiations with PEF. Without PEF's measures to maintain the confidentiality of sensitive information described herein, the Company's efforts to obtain competitive contracts and to obtain competitively priced goods and services would be undermined. See Affidavit of Franke, ¶5; Affidavit of Barkley, ¶5; Affidavit of Rib, ¶5.

Upon receipt of this confidential information, strict procedures are established and followed to maintain the confidentiality of the information provided, including restricting access to those persons who need the information to assist the Company. At no time since receiving the information in question has the Company publicly disclosed that information; the Company has treated and continues to treat the information at issue as confidential. See Affidavit of Franke, ¶5; Affidavit of Barkley, ¶5; Affidavit of Rib, ¶5.

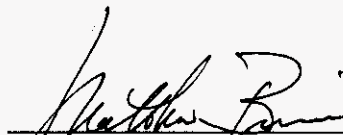
CONCLUSION

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, Florida Administrative Code, and that information should be afforded confidential classification. In support of this motion, PEF has enclosed the following:

- (1) A separate, sealed envelope containing a CD including the confidential documents as Attachment A to PEF's Request for Confidential Classification for which PEF has requested 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 has requested confidential classification redacted by section, page or lines, where appropriate, as Attachment B; and,
- (3) A justification matrix supporting PEF's Request for Confidential Classification of the highlighted information contained in confidential Attachment A, as Attachment C.

WHEREFORE, PEF respectfully requests that the highlighted portions of the documents produced in response to FIPUG's Fourth Request for Production of Documents (Nos. 44-46), specifically request number 44, 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 the foregoing has been served via electronic and U.S. Mail to the following counsel of record as indicated below on this 13th day of August, 2009.


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Public Service Commission

ACKNOWLEDGEMENT

DATE: August 13, 2009

TO: Matthew Bernier

FROM: Kimberley M. Peña, Office of Commission Clerk

RE: Acknowledgement of Receipt of Confidential Filing

This will acknowledge receipt of a CONFIDENTIAL DOCUMENT filed in Docket Number 090079-EI or, if filed in an undocketed matter, concerning seventh request for confidential classification regarding the documents produced in response to FIPUG's 4th request for PODs (Nos. 44-46), specifically No. 44, 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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