

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

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COMMISSION  
CLERK

Docket No. 090079-EI

Submitted for Filing September 11, 2009

IN RE: PETITION FOR INCREASE IN  
RATES BY PROGRESS ENERGY  
FLORIDA, INC.

**PROGRESS ENERGY FLORIDA'S TWELFTH REQUEST FOR CONFIDENTIAL  
CLASSIFICATION REGARDING THE DOCUMENTS PRODUCED IN RESPONSE TO  
STAFF'S EIGHTEENTH REQUEST FOR PRODUCTION OF DOCUMENTS (NO. 102)**

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 the Florida Public Service Commission's Staff's ("Staff") Eighteenth Request for Production of Documents (No. 102). The information being provided in response to these requests contains confidential information relating to the Company's competitive interests, the release of which would harm the Company's competitive business interests. The documents being provided in response to this request contain confidential information relating to the Company's competitive interests, including confidential contractual information, the release of which would harm the Company's competitive business interests. For these reasons, PEF requests that the Commission afford these documents confidential classification.

With respect to the confidential information at issue, PEF filed its Sixth Notice of Intent to Request Confidential Classification on August 21st, 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:

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## **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 affidavit of Bruce Barkley, include confidential information regarding the Company’s projected fuel costs. Specifically, these documents include the Company’s projected No. 2 Oil and No. 6 Oil Price Forecasts, Fuel and Operations Forecasts and Coal Cost Forecasts. Disclosure of this information would impair PEF’s competitive business interests by providing third parties with sensitive information which would provide third parties a competitive advantage when negotiating contracts related to such commodities in the future. Also included in these responsive documents is information related to the Company’s coal contracts, including the pricing agreements and transportation agreements, which the Company treats as proprietary and confidential. Therefore, public disclosure of this information could adversely affect the Company’s ability to purchase these

commodities at advantageous prices, therefore impacting the Company's competitive interests and ultimately having a detrimental impact on PEF's ratepayers. See Affidavit, ¶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, ¶5. Absent such measures, PEF would run the risk that it would be unable to contract for the use of similar proprietary information in the future. 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 id. Furthermore, PEF has provided similar information in response to previous discovery requests, and has at all times taken the appropriate steps to maintain its confidentiality. Id.

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 id.

### **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 Staff's Eighteenth Request for Production of Documents (No. 102), 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 11<sup>th</sup> day of September, 2009.

  
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# Public Service Commission

## ACKNOWLEDGEMENT

DATE: September 11, 2009

TO: Matthew Bernier, 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 documents produced in response to staff's 18<sup>th</sup> Request for PODs, No. 102, 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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