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-M-E-M-O-R-A-N-D-U-M-

**DATE:** February 22, 2010

**TO:** Katherine E. Fleming, Senior Attorney, Office of the General Counsel

**FROM:** Anne E. Marsh, Economic Analyst, Division of Economic Regulation

**RE:** Docket No. 090079-EI - Progress Energy Florida, Inc. Confidentiality Request by PEF (Document No. 09758-09, x-ref 09528-09)

Progress Energy Florida, Inc. (PEF) has requested that the compensation amounts of officers and employees of PEF and Progress Energy Service, Inc. be kept confidential in its responses to Staff's Thirty-Second Set of Interrogatories No. 410 and Staff's Twenty-Fourth Request for Production of Documents No. 168. (Document No. 09758-09, x-ref 09528-09). The information requested is the amounts of compensation for employees and officers of PEF and Progress Energy Service, Inc., including the amount of compensation allocated to PEF for recovery through base rates in the rate case.

PEF requests confidentiality under Subsection 366.093(3)(c), Florida Statutes (F.S.), which states:

(3) Proprietary confidential business information means information, regardless of form or characteristics, which is owned or controlled by the person or company, is intended to be and is treated by the person or company as private in that the disclosure of the information would cause harm to the ratepayers or the person's or company's business operations, and has not been disclosed unless disclosed pursuant to a statutory provision, an order of a court or administrative body, or private agreement that provides that the information will not be released to the public. Proprietary confidential business information includes, but is not limited to:

- (a) Trade secrets.
- (b) Internal auditing controls and reports of internal auditors.
- (c) Security measures, systems, or procedures.
- (d) 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.
- (e) Information relating to competitive interests, the disclosure of which would impair the competitive business of the provider of the information.

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(f) Employee personnel information unrelated to compensation, duties, qualifications, or responsibilities.

PEF's claim is that disclosure of this information would impair PEF's competitive business interests by providing third parties with sensitive compensation information which would allow third parties a competitive advantage when negotiating with prospective employees or could allow competitors to offer increased compensation to these or similar employees. PEF claims that public disclosure of this information could adversely affect the Company's ability to hire and/or retain valuable employees, therefore impacting the Company's competitive interests and ultimately having a detrimental impact of PEF's ratepayers. PEF's claim is that the information is intended to be and is treated by PEF as private and has not been publicly disclosed.

Staff has reviewed PEF's confidentiality request. As stated in Order No. Order No. PSC-09-0639-CFO-EI Docket Nos. 090079-EI, 090144-EI, 090145-EI, page 3:

Subsection 366.093(3)(f) plainly states that proprietary confidential business information includes "[e]mployee personnel information unrelated to compensation, duties, qualifications, or responsibilities." (emphasis added). Thus, under the statute, employee personnel information that is related to compensation, duties, qualifications, or responsibilities is expressly excluded from the definition of proprietary confidential business information.

PEF is requesting that compensation be included in its rate case for recovery from its ratepayers. Therefore, staff recommends that the request for confidentiality of certain information included in Document No. 09758-09 be denied.

cc: ~~Office of Commission Clerk~~