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DIVISION OF THE COMMISSION CLERK &
ADMINISTRATIVE SERVICES
BLANCA S. BAYO
DIRECTOR
(850) 413-6770 (CLERK)
(850) 413-6330 (ADMIN)
COMMISSION CLERK

Public Service Commission

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

DATE: November 4, 2005

TO: OFFICE OF THE GENERAL COUNSEL
DIVISION OF COMPETITIVE MARKETS & ENFORCEMENT
XX DIVISION OF ECONOMIC REGULATION
DIVISION OF REGULATORY COMPLIANCE
& CONSUMER ASSISTANCE

FROM: DIVISION OF THE COMMISSION CLERK AND ADMINISTRATIVE SERVICES

RE: CONFIDENTIALITY OF CERTAIN INFORMATION

CMP _____
COM _____ DOCUMENT NO(s): 10709-05

CTR _____
ECR _____ DESCRIPTION: Progress (Dailey) - (CONFIDENTIAL) Information provided to
OPC, subject to temporary protective orders or requests, and
which OPC indicated it may use at November hearing.

GCL _____
OPC _____
RCA _____

SCR _____
SGA _____ SOURCE: Progress Energy Florida, Inc.

SEC 1 DOCKET NO(S): 050001-EI

OTH Lockard

The above material was received with a filing of a request for confidential classification. Please prepare a recommendation for the attorney assigned to the case by completing the section below and forwarding a copy of this memorandum, together with a brief memorandum supporting your recommendation, to the attorney. Copies of your recommendation should also be provided to the Division of the Commission Clerk and Administrative Services, Bureau of Records and Hearing Services, and to the Office of General Counsel.

DOCUMENT NUMBER-DATE

10800 NOV-9 05

FPSC-COMMISSION CLERK

Please read each of the following and check if applicable.

- The document(s) is (are), in fact, what the utility asserts it (them) to be.
- The utility has provided enough details to perform a reasoned analysis of its request.
- The material has been received incident to an inquiry.
- The material is confidential business information because it includes:
- (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 company to contract for services on favorable terms;
 - (e) Employee personnel information unrelated to compensation, duties, qualifications, or responsibilities;
 - (f) Tax returns or tax-related information;
 - (g) Information relating to competitive interests, the disclosure of which would impair the competitive business of the provider of information.
- The material appears to be confidential in nature and harm to the company or its ratepayers will result from public disclosure.
- The material appears not to be confidential in nature.
- The material is a periodic or recurring filing and each filing contains confidential information.

Response prepared by: Bernard W. Windham

Date: 11-07-05

cc: GCL FLL
 CMP CCA
 ECR RCA
 MMS

Hopping Green & Sams

Attorneys and Counselors

Writer's Direct Dial No.
(850) 425-2328

November 3, 2005

RECEIVED
FLORIDA PUBLIC SERVICE
COMMISSION
05 NOV -4 AM 10:32
DIVISION OF
ECONOMIC REGULATION

BY HAND DELIVERY

Blanca Bayó
Director Records and Reporting
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399

Re: Docket No. 050001-EI
Request for Confidential Classification
CONFIDENTIAL MATERIALS ENCLOSED

Dear Ms. Bayó:

Enclosed for filing on behalf of Progress Energy Florida, Inc., (PEF) are the following:

- (1) The original and seven copies of PEF's Request for Confidential Classification, including Exhibit A, which identifies by page and line the information for which PEF seeks confidential treatment. (A diskette containing the Request in Word format is also included);
- (2) A package containing Exhibit B, which includes two redacted copies of the confidential documents; and
- (3) A CONFIDENTIAL package containing Exhibit C which includes one copy of the documents on which the confidential material has been highlighted.

Please stamp and return the enclosed extra copy of this filing. If you have any question regarding this filing, please contact the undersigned.

Very truly yours,

Virginia C. Dailey
Virginia C. Dailey

VCD/dg
Enclosures
cc: certificate of service

DOCUMENT NUMBER-DATE

10708 NOV-3 05

CERTIFICATE OF SERVICE

I HEREBY CERTIFY, on behalf of Progress Energy Florida, that PEF's Request for Confidential Classification in Docket No. 050001-EI has been furnished by hand-delivery (*) or by regular U.S. mail to the following this 3rd day of November, 2005.

Adrienne Vining, Esq.
Jennifer Rodan, Esq.
Florida Public Service Commission
2540 Shumard Oak Blvd.
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CSX Transportation, Inc.
Mark Hoffman
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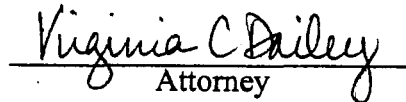
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Attorney

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Fuel and purchased power cost recovery
clause with generating performance incentive
factor.

Docket No. 050001-EI

Dated: November 3, 2005

**PROGRESS ENERGY FLORIDA INC.'S
REQUEST FOR CONFIDENTIAL CLASSIFICATION**

Progress Energy Florida, Inc., ("Progress Energy" or "Company"), pursuant to Section 366.093, Florida Statutes (F.S.), and Rule 25-22.006, Florida Administrative Code (F.A.C.), submits this Request For Confidential Classification of information which has been provided to the Office of Public Counsel ("OPC"), subject to temporary protective orders or requests therefor, and which OPC has indicated that it may use at the November hearing in this docket (herein referred to as "Confidential Information"). In support of this request for Confidential Classification, PEF states as follows:

1. The Office of Public Counsel notified Progress Energy, by letters dated October 24, 2005 and October 31, 2005, of its intention to possibly introduce certain Confidential Information into evidence during the November hearing in this docket, which had been provided to OPC subject to motions for temporary protective order. Accordingly, PEF now requests confidential classification of that Confidential Information to prevent the public disclosure of that information.

2. The following exhibits are included with this request:

(a) Exhibit A is a table which lists the page and line numbers of the Confidential Information for which PEF seeks protection.

(b) Exhibit B is a package containing two copies of redacted versions of the document for which PEF requests confidential classification. The specific information for which confidential treatment is requested has been blocked out by opaque marker or other means.

(c) Exhibit C is a package containing unredacted copies of the document for which PEF seeks confidential treatment. Exhibit C is being submitted separately in a sealed envelope labeled "CONFIDENTIAL." In the unredacted version, the information asserted to be confidential is highlighted in yellow.

3. The documents at issue in this request are contracts between PEF and its affiliate, Progress Fuels Corporation ("PFC"), for supply of coal, and contracts between PFC and providers of coal other than PFC. The Confidential Information in each of these documents is listed, by page and line number, in Exhibit A, and is highlighted in yellow in Exhibit C.

4. Subsection 366.093(1), F.S., provides that any records "found by the commission to be proprietary confidential business information shall be kept confidential and shall be exempt from s. 119.07(1) [requiring disclosure under the Public Records Act]." Proprietary confidential business information includes, but is not limited to, "[i]nformation concerning . . . 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." § 366.093(3)(d), F.S. The designated information concerns pricing information for coal and/or coal transportation services and falls within this statutory category and, thus, constitutes propriety confidential business information entitled to protection under Section 366.093 and Rule 25-22.006, F.A.C.

5. The Confidential Information identifies the prices paid for coal and/or coal transportation services under coal supply contracts in 2004 and 2005. Disclosure of these prices

would provide potential coal suppliers or coal transportation service providers direct knowledge of the prices or transportation rates against which they must compete. This knowledge could give the potential suppliers a significant competitive advantage in future contract renewal negotiations because the suppliers would no longer need to make their best offers to ensure the competitiveness of their rates against the unknown rates of alternative suppliers available to PFC. Instead, the suppliers could simply offer the highest rates that allowed them to maintain a marginally competitive position against the known rates of PFC's alternative suppliers. As a result, PFC and PEF could incur higher fuel costs than if PFC's coal suppliers and coal transportation service providers were not forearmed with this sensitive and competitively damaging information. Because these higher fuel costs could ultimately be borne by customers of PEF through the fuel charge on their electric bills, disclosure of the coal prices and transportation rates would be contrary to the best interests of PEF's customers.

6. Further, the Commission has already granted confidential classification for virtually identical information. *See, e.g.*, Order No. PSC-05-0200-CFO-EI (Feb. 21, 2005) (granting confidential classification to documents responsive to request numbers 8, 9, and 10 in PEF's responses to Staff's 4th Request to Produce Documents, which included 2004 agreements for the sale and purchase of coal).

7. In addition, the Confidential Information provides the same or substantially similar competitively sensitive information as that contained in PEF's Form 423 monthly filings in the ongoing Fuel and Purchased Power Cost Recovery proceedings, which are consistently accorded confidential classification by the Commission. *See, e.g.*, Order No. PSC-05-1096-CFO-EI,

PROGRESS ENERGY FLORIDA'S
REQUEST FOR CONFIDENTIAL CLASSIFICATION
DOCKET NO. 050001-EI
PAGE 4

issued in Docket No. 050001-EI (Nov. 2, 2005) (granting confidential classification to PEF's August 2005 Form 423 Fuel Reports).

8. The confidential information identified in Exhibit A is intended to be and is treated by the Company as private and has not been publicly disclosed.

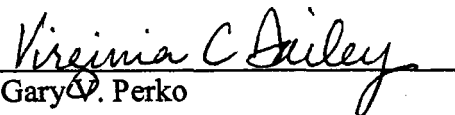
9. Progress Energy requests an 18-month confidentiality period, consistent with Rule 25-22.006(9)(a), F.A.C.

WHEREFORE, for the foregoing reasons, Progress Energy Florida, Inc., respectfully requests that this Request for Confidential Classification be granted.

RESPECTFULLY SUBMITTED this 3rd day of November, 2005.

HOPPING GREEN & SAMS, P.A.

By:



Gary V. Perko

Virginia C. Dailey

123 S. Calhoun Street (32301)

Post Office Box 6526

Tallahassee, FL 32314

Telephone: 805-425-2359

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PROGRESS ENERGY FLORIDA'S
 REQUEST FOR CONFIDENTIAL CLASSIFICATION
 DOCKET NO. 050001-EI
 EXHIBIT A, PAGE 1

EXHIBIT A

**PROGRESS ENERGY FLORIDA'S
 JUSTIFICATION FOR CONFIDENTIAL TREATMENT OF INFORMATION**

DOCUMENT	PAGE NO(S).	LINE NO(S).	STATUTORY JUSTIFICATION
Agreement for the Sale and Purchase of Coal Between Progress Fuels Corporation and Progress Fuels Corporation on its own behalf and as agent for Diamond May Coal Company; Kanawha River Terminals, Inc.; Kentucky May Company, Inc.; and Powell Mountain Coal Company, Inc. of January 1, 2005	4	1	§ 366.093(3)(d), Fla. Stat.
	Appendix B, pg. 1	1	
Letter Agreement Dated December 19, 2003 Addressed to Mr. Joseph B. Jefferson	Letter, pg. 1	1-2	§ 366.093(3)(d), Fla. Stat.
Letter from Al Pitcher (Progress Fuels) to John Parker (Massey Coal Sales Company) dated September 8, 2003; with attachment: "First Amendment to the Coal Sales Agreement between Electric Fuels Corporation and Massey Coal Sales Company, Inc. Dated October 30, 2001	1	1-2	§ 366.093(3)(d), Fla. Stat.
	2	1-4	
Coal Supply Agreement between Guasare Coal International, NV, and Progress Fuels Corporation of August 7, 2003	5	1-6	§ 366.093(3)(d), Fla. Stat.
Letter from Al Pitcher (Progress Fuels) to Clark Wisman (Central Coal Company) of January 27, 2004; with attachment no. 1: "Terms and Conditions made a part of Letter Agreement Dated January 27, 2004"; with attachment no. 2: Letter from Al Pitcher to Clark Wisman dated March 22, 2004, regarding Amendment to Letter Agreement Dated January 27, 2004	Letter, pg. 1	1-4	§ 366.093(3)(d), Fla. Stat.
	Att. no. 2, pg. 1	1-2	

PROGRESS ENERGY FLORIDA'S
 REQUEST FOR CONFIDENTIAL CLASSIFICATION
 DOCKET NO. 050001-EI
 EXHIBIT A, PAGE 2

Letter from Al Pitcher (Progress Fuels) to Clark Wisman (Central Coal Company) dated January 16, 2004; with attachment: "Terms and Conditions made a part of Letter Agreement dated January 16, 2004"	Letter, pg. 1	1-3	§ 366.093(3)(d), Fla. Stat.
Letter from Al Pitcher (Progress Fuels) to John Parker (Massey Coal Sales Company, Inc.) dated April 7, 2005, with untitled Attachment 1	1	1-3	§ 366.093(3)(d), Fla. Stat.
	3 (Attachment 1)	1-8	
Letter from Al Pitcher (Progress Fuels) to Tom Scholl (Keystone Coal Company) of February 4, 2004; with attachment: "Terms and Conditions made a part of Letter Agreement dated February 4, 2004"	Letter, pg. 1	1-2	§ 366.093(3)(d), Fla. Stat.
Letter from Al Pitcher (Progress Fuels) to Mike Gatens (Keystone Coal Company) of April 28, 2005; with attachment: "Terms and Conditions made a part of Letter Agreement Dated April 28, 2005"	Letter, pg. 1	1-2	§ 366.093(3)(d), Fla. Stat.
Letter from Al Pitcher (Progress Fuels) to Steven E. Weber (Emerald International Corporation) of May 3, 2005; with attachment: "Terms and Conditions made a part of Letter Agreement dated May 3, 2005"	Letter, pg. 1	1-2	§ 366.093(3)(d), Fla. Stat.
Letter from Al Pitcher (Progress Fuels) to Steven E. Weber (Emerald International Corporation) of May 12, 2005	1	1-2	§ 366.093(3)(d), Fla. Stat.
Letter from Al Pitcher (Progress Fuels) to Steven E. Weber (Emerald International Corporation) of May 19, 2005	1	1-2	§ 366.093(3)(d), Fla. Stat.
Letter from Al Pitcher (Progress Fuels) to Steven E. Weber (Emerald International Corporation) of January 7, 2005; with attachment: "Terms and Conditions of Letter Agreement Dated January 7, 2005"	Letter, pg. 1	1	§ 366.093(3)(d), Fla. Stat.

PROGRESS ENERGY FLORIDA'S
 REQUEST FOR CONFIDENTIAL CLASSIFICATION
 DOCKET NO. 050001-EI
 EXHIBIT A, PAGE 3

Letter from Al Pitcher (Progress Fuels) to Joseph B. Jefferson (Progress Fuels Corporation) of February 3, 2005	1	1-2	§ 366.093(3)(d), Fla. Stat.
Letter from Al Pitcher (Progress Fuels) to Brett Phipps (Progress Fuels Corporation) of February 14, 2005	1	1	§ 366.093(3)(d), Fla. Stat.
Email from Dave Williams to Amy Futrell of August 4, 2005, including email from Dayton Eisel to Al Pitcher of August 3, 2005 regarding "Coal Shipping Location Change Request"	1	1-2	§ 366.093(3)(d), Fla. Stat.
	2	1	
Letter from Al Pitcher (Progress Fuels) to Joseph B. Jefferson (Progress Fuels Corporation) of December 19, 2003; with attachment: "Terms and Conditions made a part of Letter Agreement Dated December 19, 2003"	Letter, pg. 1	1-3	§ 366.093(3)(d), Fla. Stat.
Letter from Al Pitcher (Progress Fuels) to Joseph B. Jefferson (Progress Fuels Corporation) of September 22, 2003; with attachment: "Terms and Conditions made a part of Letter Agreement Dated September 22, 2003"	Letter, pg. 1	1-3	§ 366.093(3)(d), Fla. Stat.