

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for determination of need for Levy Units 1 and 2 nuclear power plants, by Progress Energy Florida, Inc.

Docket No. 080148-EI

Submitted for Filing: April 17, 2008

COMMISSION CLERK

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PROGRESS ENERGY FLORIDA'S SECOND REQUEST FOR CONFIDENTIAL CLASSIFICATION REGARDING STAFF'S SECOND REQUEST FOR PRODUCTION OF DOCUMENTS

Progress Energy Florida ("PEF" or the "Company"), pursuant to Section 366.093, Fla. Stats., and Rule 25-22.006, F.A.C., files this Request for Confidential Classification for PEF's responses to the Staff's Second Request for Production (Nos. 1-3), Nos. 1 and 2. Specifically, such responses contain confidential information regarding contracts between PEF and outside vendors who provide fuel forecasting data, the disclosure of which would compromise PEF's competitive business interests. Accordingly, PEF hereby submits the following.

Basis for Confidential Classification

Subsection 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. Stats. 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. Stats. Specifically, subsection 366.093(3)(e) defines "information relating to competitive interests, the disclosure of which

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OTH conf records would impair the competitive business of the provider of the information," as proprietary

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confidential business information. In addition, proprietary confidential business information includes “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.” §366.093(3)(d), Fla. Stats.

Staff’s Second Request for Production No. 1

Portions of PEF’s responses to Staff’s Second Request for Production number 1 should be afforded confidential treatment for the reasons set forth in the Affidavit of Sasha Weintraub filed in support of PEF’s Request for Confidential Classification and for the following reasons. Specifically, portions of the documents responsive to this request contain coal, oil, and natural gas forecasting data and market information, which PEF purchases from third party entities. The terms of the contracts under which PEF purchases these fuel forecasts requires PEF to maintain the information contained in these reports as confidential. See Affidavit of Sasha Weintraub at ¶ 5. Disclosure of this information would violate the terms of those confidentiality agreements. In addition, if PEF disclosed this confidential forecasting data, the third parties that sell this data may be unwilling in the future to offer such information to PEF, which could adversely affect PEF’s competitive business interests in buying fuel. Id.

Upon receipt of this confidential information, 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. (Id. at ¶ 6). At no time since receiving the information in question has the Company publicly disclosed that information or contracts. Id. The Company has treated and continues to treat the information at issue as confidential. Id.

Staff's Second Request for Production No. 2

Portions of PEF's responses to Staff's Second Request for Production number 2 should be afforded confidential treatment for the reasons set forth in the Affidavit of John Siphers filed in support of PEF's Request for Confidential Classification and for the following reasons. Specifically, portions of the documents responsive to this request contain uranium and nuclear fuel forecasting data and market information, which PEF purchases from third party entities. The terms of the contracts under which PEF purchases these fuel forecasts requires PEF to maintain the information contained in these reports as confidential. See Affidavit of John Siphers at 5. Disclosure of this information would violate the terms of those confidentiality agreements. In addition, if PEF disclosed this confidential forecasting data, the third parties that sell this data may be unwilling in the future to offer such information to PEF, which could adversely affect PEF's competitive business interests in buying fuel. Id.

Upon receipt of this confidential information, 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. (Id. at ¶ 6). At no time since receiving the information in question has the Company publicly disclosed that information or contracts. Id. The Company has treated and continues to treat the information at issue as confidential. Id.

Conclusion

The competitive, confidential information at issue in this request fits the statutory definition of proprietary confidential business information under Section 366.093 and Rule 25-22.006, F.A.C. Separate sealed envelopes containing one copy of the confidential exhibits for

which PEF intends to request confidential classification with the appropriate section, pages, or lines containing the confidential information highlighted is enclosed herewith as Attachment "A." **This information should be accorded confidential treatment pending a decision on PEF's request by the Florida Public Service Commission.**

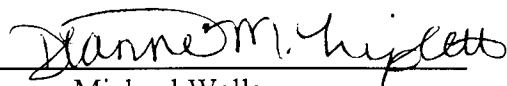
Additionally, two copies of the confidential exhibits with the information that PEF intends to request confidential classification redacted by section page, or lines, are also included herewith as Attachment "B."

Attachment "C" hereto contains a justification matrix supporting PEF's request for confidential classification of the highlighted information contained in Attachment A.

WHEREFORE, PEF respectfully requests that the responses to the Staff's Second Request for Production of Documents (Nos. 1-3), Requests 1 and 2, described specifically in Attachment C, be classified as confidential for the reasons set forth above.

Respectfully submitted this 17th day of April, 2008.

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY a true and correct copy of the foregoing has been furnished to counsel and parties of record as indicated below via U.S. Mail this 17th day of April, 2008.


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Public Service Commission

ACKNOWLEDGEMENT

DATE: April 17, 2008

TO: Diane Triplett, 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 080148 or, if filed in an undocketed matter, concerning Responses to staff's 2nd request for PODs, Nos. 1-3, Nos. 1 and 2, 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.

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