

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Nuclear Power Plant Cost
Recovery Clause

Docket No. 080009-EI

Submitted for Filing: April 22, 2008

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

Progress Energy Florida, Inc., ("PEF," "Progress Energy," or "Company"), pursuant to Section 366.093, Fla. Stats., and Rule 25-22.006, Florida Administrative Code (F.A.C.), submits this Request for Confidential Classification to portions of PEF's responses to the Office of Public Counsel's ("OPC's") First Request for Production of Documents (Nos. 1-11), specifically confidential and sensitive project analysis, bid request analysis, and contractual information. For the reasons set forth in PEF's justification matrix and affidavit in support of its request, PEF seeks confidential classification for portions of the documents responsive to these requests for production. In further support of this Request, PEF states:

Justification for Confidential Classification

CMP _____ Subsection 366.093(1), Florida Statutes, provides that "any records received by the
COM _____
CTR _____ Commission which are shown and found by the Commission to be proprietary confidential
ECR 1 business information shall be kept confidential and shall be exempt from [the Public Records
OCL 1
OPC _____ Act]." §366.093(1), Fla. Stats. Proprietary confidential business information means information
RCA _____ that is (i) intended to be and is treated as private confidential information by the Company, (ii)
SCR _____ because disclosure of the information would cause harm, (iii) either to the Company's ratepayers
SGA _____
SEC _____ or the Company's business operation, and (iv) the information has not been voluntarily disclosed

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to the public. §366.093(3), Fla. Stats. Specifically, “information relating to competitive interests” is defined as proprietary confidential business information if the disclosure of such information “would impair the competitive business of the provider of the information.” §366.093(3)(e), Fla. Stats. Section 366.093(3)(d) further defines proprietary confidential business information as “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.

Responses to OPC Requests 3, 6, 9, 10, and 11

Portions of the responses to OPC Requests 3, 6, 9, 10, and 11 contain confidential contractual information regarding the purchase of equipment and services necessary to complete the CR3 Uprate project. Certain of these documents contain contractual quantities and pricing arrangements between PEF and providers of various nuclear equipment and services that would adversely impact PEF’s competitive business interests if disclosed to the public. See Affidavit of Daniel L. Roderick at ¶ 5. PEF must be able to assure these vendors that sensitive business information, such as the pricing and quantity terms of their contracts, will be kept confidential. Id. Indeed, some of the contracts at issue contain confidentiality provisions that prohibit the disclosure of the terms of the contract to third parties. Id.

Specifically, the information at issue relates to competitively negotiated contractual data, such as quantity and pricing of goods and services, and other contractual terms, the disclosure of which would impair the efforts of the Company to negotiate these contracts on favorable terms. See § 366.093(3)(d), Fla. Stats.; Affidavit of Roderick at ¶ 5. If other third parties were made aware of confidential contractual terms that PEF has with other parties, they may offer PEF less competitive contractual terms in future contractual negotiations. Id. Without PEF’s measures to

maintain the confidentiality of sensitive terms in contracts between PEF and these nuclear contractors, the Company's efforts to obtain competitive contracts for the CR3 Uprate project could be undermined. Id.

Response to OPC Requests 1, 2, and 4

Portions of PEF's responses to Request numbers 1, 2, and 4 contain confidential and sensitive analysis done by the Company in considering whether to purchase certain equipment and services. These documents reflect the Company's internal strategies for evaluating bid responses. See Affidavit of Roderick at ¶ 7.

If this information was disclosed to the public, it could adversely impact PEF's competitive interests. Id. If such information was disclosed to PEF's competitors and/or other potential suppliers, PEF's efforts to obtain competitive nuclear equipment and service options that provide economic value to both PEF and its ratepayers could be compromised by PEF's competitors and/or suppliers changing their offers, consumption, or purchasing behavior within the relevant markets. Id.

Response to OPC Requests 5 and 7

Portions of PEF's responses to Request numbers 5 and 7 contain confidential and sensitive analyses and project plans done by the Company in considering whether to proceed with the CR3 Uprate project, including detailed analysis of risk options, scheduling, and cost. These documents reflect the Company's internal strategies for evaluating projects and meeting deadlines. See Affidavit of Roderick at ¶ 9.

If this information was disclosed to the public, it could adversely impact PEF's competitive interests. Id. If such information was disclosed to PEF's competitors and/or other potential suppliers, PEF's efforts to obtain competitive nuclear equipment and service options

that provide economic value to both PEF and its ratepayers could be compromised by PEF's competitors and/or suppliers changing their offers, consumption, or purchasing behavior within the relevant markets. Id. For example, if one of PEF's suppliers was to know that PEF considered a particular good or service to be of utmost importance to the project, that supplier could artificially increase the asking price for that good or service, to the detriment of the ratepayers. Id.

For all the documents described above, strict procedures are established and followed to maintain the confidentiality of the terms of the confidential documents and information at issue, including restricting access to those persons who need the information and documents to assist the Company. See Affidavit of Roderick at ¶ 10. At no time has the Company publicly disclosed the confidential information or documents at issue. Id. The Company has treated and continues to treat the information and documents at issue as confidential. Id. PEF requests this information be granted confidential treatment by the Commission.

Conclusion

Certain portions of PEF's responses to OPC's First Request for Production of Documents (Nos. 1-11) contain sensitive, confidential business information and fit the statutory definition of proprietary confidential business information under Section 366.093 Fla. Stats. and Rule 25-22.006, F.A.C., and that information should be afforded confidential classification. The following exhibits are included in support of this request:

(a) Sealed Composite Exhibit A is a package containing unredacted copies of all the documents for which PEF seeks confidential treatment. Composite Exhibit A is being submitted separately in a sealed package labeled "CONFIDENTIAL." In the unredacted version, the information asserted to be confidential is highlighted by yellow marker.

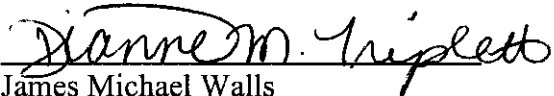
(b) Composite Exhibit B is a package containing two copies of redacted versions of the documents for which the Company requests confidential classification. The specific information for which confidential treatment is requested has been blocked out by opaque marker or other means.

(c) Exhibit C is a table which identifies by page and line the information for which PEF seeks confidential classification and the specific statutory bases for seeking confidential treatment.

WHEREFORE, PEF respectfully requests that portions of the responses to OPC's First Request for Production of Documents (Nos. 1-11) be classified as confidential for the reasons set forth above.

Respectfully submitted,

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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 22nd day of April, 2008.


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Public Service Commission

ACKNOWLEDGEMENT

DATE: April 22, 2008

TO: Dianne Triplet, Michael Walls/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 080009 or, if filed in an undocketed matter, concerning portions of PEF's response to OPC's 1st request for PODs, Nos. 1-11 [00002-01210], 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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