

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

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In re: Nuclear Power Plant Cost
Recovery Clause

Docket No. 080009-EI
Submitted for Filing: August 7, 2008

**PROGRESS ENERGY FLORIDA'S REQUEST FOR CONFIDENTIAL
CLASSIFICATION REGARDING AUDIT REPORT NO. 08-087-2-1,
DATA REQUESTS, AND WORKPAPERS**

Progress Energy Florida ("PEF" or the "Company"), pursuant to Section 366.093, Fla. Stats., and Rule 25-22.006(3), F.A.C., requests confidential classification of portions of the documents and information provided to Public Service Commission ("PSC") Staff auditors, in response to data requests, during Staff's review, *Audit Control No. 08-087-2-1*, portions of Staff's workpapers, and portions of the final audit report. These documents contain confidential cost information and contractual information, the disclosure of which would impair PEF's competitive business interests and violate PEF's third party confidentiality agreements. The unredacted documents discussed above are being filed under seal with the Commission on a confidential basis to keep the competitive business information in those documents confidential.

The Confidentiality of the Documents at Issue

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. 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

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been voluntarily disclosed to the public. § 366.093(3), Fla. Stats. Specifically, “information... 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. Stats. Additionally, subsection 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. Subsection 366.093(3)(b) further defines “internal auditing controls and reports of internal audits” as proprietary confidential business information.

Documents produced in response to LV-01-07-PC

Portions of the documents responsive to LV-01-07-PC should be afforded confidential treatment for the reasons set forth in the Affidavit of Daniel L. Roderick filed in support of PEF’s Request for Confidential Classification and for the following reasons. Specifically, portions of these documents contain information regarding land acquisition costs that would adversely impact PEF’s competitive business interests if disclosed to the public. See Affidavit of Daniel L. Roderick at ¶ 4.

PEF is requesting confidential classification of this information because public disclosure of the information in question would violate confidentiality agreements between PEF and its land sellers and would impair PEF’s ability to contract for real estate on competitive and favorable terms.

The documents requested contain the land acquisition costs for the Levy Nuclear sites. Both sites were purchased pursuant to contracts that contain confidentiality provisions. PEF negotiates with potential landowners to obtain competitive contracts for real property that provide economic value to PEF and its ratepayers. In order to obtain such contracts, however,

PEF must be able to assure these landowners that sensitive business information, such as the quantity and pricing terms of their contracts, will be kept confidential. PEF has kept confidential and has not publicly disclosed the proprietary contract terms and provisions at issue here.

Absent such measures, PEF would run the risk that sensitive business information regarding what it is willing to pay for real property would be made available to the public and, as a result, other potential sellers of real property could change their position in their negotiations with PEF for the future purchase of other real property. Without PEF's measures to maintain the confidentiality of sensitive terms in these real property purchase contracts, the Company's efforts to obtain competitive land contracts would be undermined. In addition, by the terms of these contracts, all parties, including PEF, have agreed to protect proprietary and confidential information, which is defined to include the price, from public disclosure.

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, and restricting the number of, and access to the information. (Affidavit of Daniel L. Roderick at ¶ 6). At no time since receiving the information in question has the Company publicly disclosed that information. 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., and that information should be afforded confidential classification. In support of this motion, PEF has enclosed the following:

(1). A separate, sealed envelope containing one copy of the confidential Appendix A to PEF's Request for Confidential Classification for which PEF intends to request 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 intends to request confidential classification redacted by section, page, or lines where appropriate as Appendix B; and

(3). A justification matrix supporting PEF's request for confidential classification of the highlighted information contained in confidential Appendix A, as Appendix C.

WHEREFORE, PEF respectfully requests that the redacted portions of its responses to PSC Staff's audit requests, portions of the Staff's audit workpapers, as well as portions of the final audit report, be classified as confidential for the reasons set forth above.

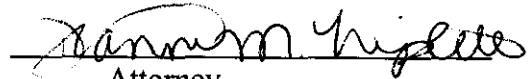
Respectfully submitted this day of ^{August 7}~~July 31~~, 2008.

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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 electronic and U.S. Mail this 7th day of August, 2008.


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ACKNOWLEDGEMENT

DATE: August 7, 2008

TO: Dianne Triplett, Carlton Fields Law Firm

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 response to data requests, during staff's review, Audit Control No. 08-087-2-1, 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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