

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

RECEIVED-PPSC
10 MAR -1 PH 2:27
COMMISSION
CLERK

In re: Nuclear Power Plant Cost
Recovery Clause

Docket No. 100009-EI
Submitted for Filing: March 1, 2010

PROGRESS ENERGY FLORIDA'S FIRST REQUEST FOR CONFIDENTIAL CLASSIFICATION REGARDING THE TESTIMONY OF WILL GARRETT AND EXHIBITS THERETO AND THE TESTIMONY OF SUE HARDISON

Progress Energy Florida, Inc. ("PEF" or the "Company"), pursuant to Section 366.093, Florida Statutes, and Rule 25-22.006(3), Florida Administrative Code, files this Request for Confidential Classification of portions of the Testimony, and Exhibits thereto, of Will Garrett, as well as portions of the testimony of Sue Hardison. Specifically, Exhibits WG-1 and WG-2 (collectively the "Exhibits") contain confidential and sensitive contractual information regarding the Company's nuclear projects, the disclosure of which would impair PEF's competitive business and ability to negotiate favorable contracts, as well as violate the contracts' nondisclosure provisions. Additionally, portions of the testimony of Mr. Garrett and Ms. Hardison contain sensitive contractual information as well as other information, the disclosure of which would harm the Company's competitive interests.

The unredacted documents discussed above are being filed under seal with the Commission as Appendix A on a confidential basis to keep the competitive business information in those documents confidential.

COM _____
APA _____
ECR |
GCL |
RAD _____
SSC _____
ADM _____
OPC _____
CLK |

In support of this request, PEF states as follows:

The Confidentiality of the Documents at Issue

Section 366.093(1), Florida Statutes, provides that "any records received by the

DOCUMENT NUMBER-DATE
01339 MAR-1 0
FPSC-COMMISSION CLERK

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. Stat. 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. Stat. Specifically, “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” is defined as proprietary confidential business information. § 366.093(3)(d), Fla. Stat. 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.

Portions of the Testimony and Exhibits to the Testimony of Will Garrett, as explained below and in the affidavits of Sue Hardison and Jon Franke, contain confidential contractual information regarding the purchase of equipment, materials, and services necessary for the construction and operation of the Levy Nuclear Power Project (“LNP”) and the Crystal River Unit 3 (“CR3”) Power Uprate Project (“CR3 Uprate” and collectively with LNP as the “Nuclear Projects”). Certain of these documents contain contractual quantities and pricing arrangements and payments made between PEF and third parties that would adversely impact PEF’s competitive business interests if disclosed to the public. See Affidavit of Jon Franke at ¶ 3; Affidavit of Sue Hardison at ¶ 3. PEF must be able to assure third parties that enter contractual agreements with the Company that sensitive business

information, such as the pricing, payment and quantity terms of their contracts, will be kept confidential. See Affidavit of Franke at ¶ 3; Affidavit of Hardison at ¶ 3. Indeed, some of the contracts at issue contain confidentiality provisions that prohibit the disclosure of the terms of the contract to third parties. Affidavit of Franke at ¶ 3; Affidavit of Hardison at ¶ 3.

Additionally, the testimony of Sue Hardison, as explained below as well as in her supporting affidavit, similarly contain confidential contractual information regarding the purchase of equipment, materials, and services necessary for the construction and operation of the LNP and payment terms. Affidavit of Hardison at ¶ 3. Specifically, the information at issue relates to competitively negotiated contractual data, including sensitive pricing information and other contractual details, the disclosure of which would impair the efforts of the Company to negotiate such contracts on favorable terms. See § 366.093(3)(d), Fla. Stat.; Affidavit of Hardison at ¶ 3. If 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. See Affidavit of Hardison at ¶ 4. Absent the Company's measures to maintain the confidentiality of sensitive terms in contracts between PEF and vendors, the Company's efforts to obtain competitively priced supply and service contracts could be undermined. Id.

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 Franke at ¶¶ 4-5; Affidavit of Hardison at ¶¶ 4-5.

At no time has the Company publicly disclosed the confidential information or documents at issue; PEF has treated and continues to treat the information and documents at issue as confidential. See Affidavit of Franke at ¶ 5; Affidavit of Hardison at ¶ 5.

PEF requests this information be granted confidential treatment by the Commission.

Conclusion

The competitive, confidential information at issue in this request fits the statutory definition of proprietary confidential business information under Section 366.093, Florida Statutes, and Rule 25-22.006, F.A.C., and therefore 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 the Testimony and the Exhibits to the Testimony of Will Garrett, as well as the redacted

portions of the Testimony of Sue Hardison, be classified as confidential for the reasons set forth above.

Respectfully submitted this 1st day of March, 2010.

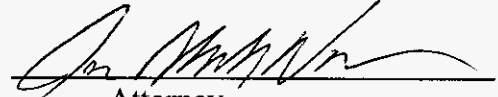
R. Alexander Glenn
General Counsel
John Burnett
Associate General Counsel
Dianne M. Triplett
Associate General Counsel
PROGRESS ENERGY SERVICE
COMPANY, LLC
Post Office Box 14042
St. Petersburg, FL 33733-4042
Telephone: (727) 820-5587
Facsimile: (727) 820-5519



James Michael Walls
Florida Bar No. 0706242
Blaise N. Huhta
Florida Bar No. 0027942
Matthew R. Bernier
Florida Bar No. 0059886
CARLTON FIELDS, P.A.
Post Office Box 3239
Tampa, FL 33601-3239
Telephone: (813) 223-7000
Facsimile: (813) 229-4133

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 1st day of March 2010.


Attorney

Anna Williams
Lisa Bennett
Keino Young
Staff Attorney
Florida Public Service Commission
2540 Shumard Oak Blvd
Tallahassee 32399
Phone: (850) 413-6218
Facsimile: (850) 413-6184
Email: anwillia@psc.state.fl.us
lbennett@psc.state.fl.us
kyoung@psc.state.fl.us

Charles Rehwinkel
Associate Counsel
Office of Public Counsel
c/o The Florida Legislature
111 West Madison Street
Room 812
Tallahassee, FL 32399-1400
Phone: (850) 488-9330
Email: rehwinkel.charles@leg.state.fl.us

Vicki G. Kaufman
Jon C. Moyle, Jr.
Keefe Law Firm
118 North Gadsden Street
Tallahassee, FL 32301
Phone: (850) 681-3828
Fax: (850) 681-8788
Email: vkaufman@kagmlaw.com
jmoyle@kagmlaw.com

Bryan S. Anderson
Jessica Cano
Florida Power & Light
700 Universe Boulevard
Juno Beach, FL 33408-0420
Phone: (561) 691-7101
Facsimile: (561) 691-7135
Email: bryan.anderson@fpl.com
Jessica.cano@fpl.com

John W. McWhirter
McWhirter Law Firm
400 North Tampa Street, Ste. 2450
Tampa, FL 33602
Phone: (813) 224-0866
Facsimile: (813) 221-1854
Email: jmewhirter@mac-law.com

James W. Brew
Brickfield Burchette Ritts & Stone, PC
1025 Thomas Jefferson St NW
8th FL West Tower
Washington, DC 20007-5201
Phone: (202) 342-0800
Fax: (202) 342-0807
Email: jbrew@bbrslaw.com

Mr. Paul Lewis, Jr.
Progress Energy Florida, Inc.
106 East College Avenue, Ste. 800
Tallahassee, FL 32301-7740
Phone: (850) 222-8738
Facsimile: (850) 222-9768
Email: paul.lewisjr@pgnmail.com

Randy B. Miller
White Springs Agricultural Chemicals, Inc.
PO Box 300
White Springs, FL 32096
Email: RMiller@pscphosphate.com

STATE OF FLORIDA

COMMISSIONERS:
NANCY ARGENZIANO, CHAIRMAN
LISA POLAK EDGAR
NATHAN A. SKOP
DAVID E. KLEMENT
BEN A. "STEVE" STEVENS III



OFFICE OF COMMISSION CLERK
ANN COLE
COMMISSION CLERK
(850) 413-6770

Public Service Commission

ACKNOWLEDGEMENT

DATE: March 1, 2010

TO: James Michael Walls, 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 1000009 or, if filed in an undocketed matter, concerning testimony of Will Garrett and exhibits thereto and testimony of Sue Hardison provided on CD (Garrett), 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 Kim Peña, Records Management Assistant, at (850) 413-6393.

CAPITAL CIRCLE OFFICE CENTER • 2540 SHUMARD OAK BOULEVARD • TALLAHASSEE, FL 32399-0850
An Affirmative Action/Equal Opportunity Employer

PSC Website: <http://www.floridapsc.com>

Internet E-mail: contact@psc.state.fl.us

DOCUMENT NO. DATE
01340-10 03/01/10
PSC - COMMISSION CLERK