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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

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IN RE: NUCLEAR POWER PLANT
COST RECOVERY CLAUSE

Docket No. 100009-PPSC
Submitted for Filing: May 21, 2010

**PROGRESS ENERGY FLORIDA'S SIXTH REQUEST
FOR CONFIDENTIAL CLASSIFICATION REGARDING STAFF'S
SECOND REQUEST FOR PRODUCTION OF DOCUMENTS (Nos. 4-7) AND
STAFF'S THIRD SET OF INTERROGATORIES (Nos. 7-9)**

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 Staff's Second Request for Production of Documents (Nos. 4-7), Requests 5, 6 and 7 and Staff's Third Set of Interrogatories (Nos. 7-9), Interrogatory No. 8. Specifically, these responses contain sensitive, confidential internal strategies, as well as confidential draft agreements and correspondence with potential joint owners and financial partners, that if disclosed would impact PEF's ability to contract on favorable terms in the future. 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

COM _____ Company, (ii) because disclosure of the information would cause harm, (iii) either to the
APA _____
ECR 4 Company's customers or the Company's business operation, and (iv) the information has not
GCL 2 been voluntarily disclosed to the public. § 366.093(3), Fla. Stats. Specifically, subsection
RAD _____
SEC _____
ADM _____
OPC _____
CLK _____

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366.093(3)(d) 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.” 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.

Staff’s Second Request for Production No. 5

PEF’s response to Staff’s Second Request for Production number 5 should be afforded confidential treatment for the reasons set forth in the Affidavit of Jeff Lyash filed in support of PEF’s Sixth Request for Confidential Classification and for the following reasons. Specifically, these tables contain details regarding PEF’s analysis and evaluations of the different options for the LNP. These schedules provide valuable insights into the Company’s analysis of risk and its overall strategy concerning the LNP. Release of this information would harm PEF’s competitive business interests by giving the Company’s competitors and contract partners insight into PEF’s strategies and its assumptions regarding the LNP. This information meets the definition of proprietary and confidential business information pursuant to section 366.093(3)(d) & (e), Florida Statutes. See Affidavit of Lyash at ¶¶ 4-6.

Staff’s Second Request for Production No. 6

PEF’s response to Staff’s Second Request for Production number 6 should be afforded confidential treatment for the reasons set forth in the Affidavit of Jeff Lyash filed in support of PEF’s Sixth Request for Confidential Classification and for the following reasons.

PEF is requesting confidential classification of this information because public disclosure of the information in question would impair PEF’s ability to purchase land for generation

projects on competitive and favorable terms in the future. See id. at ¶ 7.

Portions of the documents responsive to this request contain information regarding land acquisition costs and the Company's site selection analysis that would adversely impact PEF's competitive business interests if disclosed to the public. It would compromise PEF's competitive business interests if potential real estate owners were to know how PEF analyzed site selection and estimated land acquisition costs and how PEF contracted for land acquisition. Id. at ¶ 8.

Staff's Second Request for Production No. 7 and Staff's Third Set of Interrogatories No. 8

PEF's response to Staff's Second Request for Production number 7 and Staff's Third Set of Interrogatories number 8 should be afforded confidential treatment for the reasons set forth in the Affidavit of Jeff Lyash filed in support of PEF's Sixth Request for Confidential Classification and for the following reasons. Specifically, the documents and information responsive to this request contain confidential draft agreements and correspondence with potential joint owners and financial partners regarding negotiations for joint ownership in PEF's proposed nuclear units. Disclosure of these documents would impair PEF's competitive business interests by inhibiting the Company's on-going negotiations with the potential joint owners. See id. at ¶¶ 9-10. For example, if third parties had knowledge of the status of these on-going negotiations, the potential joint owners and financial partners with whom PEF is negotiating may not be as willing to share essential information with PEF. Id. This could affect the outcome of the negotiations to PEF's detriment. See id. at ¶ 10.

Disclosure of this information would also violate the terms of the non-disclosure agreements PEF has entered into with each of the potential joint owners and financial partners. See id. at ¶ 11. Specifically, the non-disclosure agreements require PEF and the joint owners and financial partners to maintain as confidential not only the terms of the agreement, but also all

communication between PEF and the joint owners and financial partners regarding the negotiations. Id. Therefore, this highly sensitive, confidential information should not be made publicly available.

Upon receipt of this confidential information, and with its own confidential information, strict procedures are established and followed to maintain the confidentiality 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. Id. at ¶ 12. 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. 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 Staff's Second Request for Production of Documents (Nos. 4-7), Requests 5, 6 and 7 and Staff's Third Set of Interrogatories (Nos. 7-9), Interrogatory No. 8, described specifically in Attachment C, 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 electronic and U.S. Mail this 25th day of May, 2010.



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State of Florida



Public Service Commission

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

DATE: May 25, 2010
TO: James Michael Walls, P.O. Box 3239 Tampa FL 33601
FROM: Diamond M. Williams, Office of Commission Clerk
RE: Acknowledgement of Confidential Filing in Docket Number 100009-EI

This will acknowledge receipt of a CONFIDENTIAL DOCUMENT filed in the above-referenced docket.

Document Number 04397-10 has been assigned to this filing, which 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.