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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-EI
Submitted for Filing: Aug. 16, 2010

**PROGRESS ENERGY FLORIDA'S REVISED THIRTEENTH
REQUEST FOR CONFIDENTIAL CLASSIFICATION
REGARDING AUDIT REPORT NO. PA 10-01-001**

Progress Energy Florida, Inc. ("PEF" or the "Company"), pursuant to Sections 366.093, Florida Statutes, and Rule 25-22.006(3), Florida Administrative Code, files its revised request for confidential classification and requests confidential classification of portions of the final audit report of the Florida Public Service Commission Staff ("Staff") Auditors, *Audit Control No. PA 10-01-001* (the "Audit Report"). The Audit Report contains confidential contractual information, the disclosure of which would impair PEF's competitive business interests and violate PEF's confidentiality agreements with third parties, and other competitively sensitive information the disclosure of which would impair the Company's competitive business interests. Accordingly these portions of the Audit Report meet the definition of proprietary confidential business information per section 366.093(3), Florida Statutes. An unredacted copy of the Audit Report is being filed under seal with the Commission on a confidential basis to keep the competitive business information in that document confidential.

BASIS FOR CONFIDENTIAL CLASSIFICATION

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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]." Proprietary confidential business information means information that is (i) intended to be

366.093(1) - PROPRIETARY CONFIDENTIAL BUSINESS INFORMATION
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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, that statute defines "[i]nternal auditing controls and reports of internal auditors," and "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. §§ 366.093(3)(b) & (e), Fla. Stat.

Portions of the Audit Report should be afforded confidential classification for the reasons set forth in the Affidavits of Sue Hardison, Jon Franke and Raymond Phillips filed in support of PEF's Revised Thirteenth Request for Confidential Classification ("Revised Request"), and for the following reasons.

Levy Nuclear Project

The Audit Report contains confidential contractual data, including specific pricing agreements and other confidential contractual terms and conditions, the release of which would impair PEF's competitive business interests, and would further be a violation of PEF's contractual confidentiality agreements. See Affidavit of Hardison, ¶ 4. Specifically, many of the pricing terms and other contractual terms described in the Audit Report are taken directly from PEF's Engineering, Procurement and Construction Agreement and Amendments ("EPC Agreement") with Stone & Webster, Inc. ("Stone & Webster") and Westinghouse Electric Company ("Westinghouse") (collectively, the "Consortium"). The EPC Agreement contains

sensitive, proprietary and confidential contractual terms and conditions for nuclear goods and services that if publicly disclosed would impact both PEF's and the Consortium's ability to contract on favorable terms in the future and which would violate confidentiality provisions of the EPC Agreement. In fact, the EPC Agreement contains information which PEF and the Consortium consider to be trade secrets. Accordingly, the contractual terms and conditions PEF has marked confidential in the Audit Report should be granted confidential treatment by the Commission. See id.

The Audit Report also includes information gleaned from the Company's internal audit procedures and reports, the release of which would harm PEF's ability to conduct internal audits. Public disclosure of the documents and information in question would compromise PEF's ability to effectively audit the Company's major projects. If the Company were to know that its internal auditing controls and process were subject to public disclosure, it would compromise the level of cooperation needed with auditors to efficiently conduct audits. See Affidavit of Phillips, ¶ 4.

Crystal River 3 Extended Power Uprate Project

The Audit Report also contains confidential contractual data, including pricing agreements and other confidential contractual terms regarding PEF's contracts and change orders with vendors for its Extended Power Uprate ("CR3 EPU") project the release of which would impair PEF's competitive business interests, and would further be a violation of PEF's contractual confidentiality agreements.

The Audit Report contains information related to work authorization contractual amendments and other contractual data that is subject to confidentiality agreements between PEF and the other contracting parties. PEF negotiates each of its contracts to obtain the most competitive terms available to benefit PEF and its ratepayers. In order to successfully obtain

such contracts, however, PEF must be able to assure the other parties to the contracts that the sensitive business information contained therein, such as quantity and pricing terms, will remain confidential. The public disclosure of this information would allow other parties to discover how the Company analyzes risk options, scheduling, and cost, and would impair PEF's ability to contract for such goods and services on competitive and favorable terms. Portions of the Audit Report reflect the Company's internal strategies for evaluating projects and meeting deadlines. 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 the Company and its customers could be compromised by the Company's competitors and/or suppliers changing their offers, consumption, or purchasing behavior within the relevant markets. See Affidavit of Franke, ¶¶ 4-5.

The Audit Report also contains information related to ongoing negotiations PEF is conducting with its vendor Siemens regarding the procurement and installation of the Low Pressure Turbines ("LPTs") for the CR3 EPU. Certain aspects of these negotiations are continuing and PEF is also subject to a new Letter of Intent which contains confidentiality settlement terms regarding the issues with the LPTs. While PEF has discussed this information on a high-level in its public testimony and discovery responses, disclosure of the specific items identified in the Audit Report would compromise PEF's competitive interests and ongoing negotiation position with Siemens and would violate contractual confidentiality provisions. See id. at ¶ 6.

The Audit Report also includes information gleaned from the Company's internal audit procedures and reports, the release of which would harm PEF's ability to conduct internal audits. Public disclosure of the documents and information in question would compromise PEF's ability

to effectively audit the Company's major projects. If the Company were to know that its internal auditing controls and process were subject to public disclosure, it would compromise the level of cooperation needed with auditors to efficiently conduct audits. Affidavit of Phillips, at ¶ 4.

PEF Process

PEF has kept confidential and has not publicly disclosed the proprietary 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 certain goods and services, as well as what the Company is willing to accept as payment for certain goods and/or services, would be made to available to the public and, as a result, other potential suppliers, vendors, and/or purchasers of such services could change their position in future negotiations with PEF. Without PEF's measures to maintain the confidentiality of sensitive terms in these contracts, the Company's efforts to obtain competitive contracts would be undermined. Disclosure of these terms and conditions and other items in the Audit Report would also impair PEF's continued negotiations with the Consortium and other vendors. In addition, by the terms of these contracts, all parties, including PEF, have agreed to protect the proprietary and confidential information, defined to include pricing arrangements, from public disclosure. See Affidavit of Hardison, ¶¶ 4-5; Franke, ¶ 7.

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. See Affidavits of Franke, ¶ 7; Hardison, ¶ 5. At no time since receiving the information in question has the Company publicly disclosed that information. See id. The Company has treated and continues to treat the information at issue as confidential. See id.

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, Florida Administrative Code, and that information should be afforded confidential classification. In support of this Revised Request, PEF has enclosed the following:

(1) A separate, sealed envelope containing one copy of the confidential Appendix A to PEF's Revised Thirteenth Request for Confidential Classification for which PEF has requested 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 Revised Request by the Florida Public Service Commission;**


(2) Two copies of the document with the information for which PEF has requested confidential classification redacted by section, page or lines, where appropriate, as Appendix B; and,

(3) A justification matrix supporting PEF's Revised Thirteenth 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 Audit Report be classified as confidential for the reasons set forth above.

Respectfully submitted this 16th day of August, 2010.

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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 16th day of August, 2010.



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Re: Acknowledgement of Confidential Filing in Docket No. 100009-EI

This will acknowledge receipt by the Florida Public Service Commission, Office of Commission Clerk, of a CONFIDENTIAL DOCUMENT filed on August 17, 2010, in the above-referenced docket.

Document Number 06797-10 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.