

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

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COMMISSION
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IN RE: NUCLEAR POWER PLANT COST
RECOVERY CLAUSE

Docket No. 100009-EI
Submitted for Filing: August 17, 2010

**PROGRESS ENERGY FLORIDA'S TWENTY-FIRST REQUEST FOR
CONFIDENTIAL CLASSIFICATION REGARDING DOCUMENTS PRODUCED IN
RESPONSE TO STAFF'S FOURTH REQUEST FOR PRODUCTION OF DOCUMENTS**

Progress Energy Florida, Inc. ("PEF" or the "Company"), pursuant to Section 366.093, Florida Statutes, and Rule 25-22.006(3), Florida Administrative Code, requests confidential classification of portions of the documents produced in response to Staff's Fourth Request for Production of Documents (Nos. 10-21), specifically numbers 11, 13 and 21. Certain of these documents contain proprietary confidential business information belonging to third parties that PEF is only able to obtain and use pursuant to subscription agreements that require PEF to maintain the confidentiality of the information by not distributing to outside persons or organizations. The disclosure of this information would harm PEF's competitive business interests by impeding the Company's ability to obtain this information, and would further violate the aforementioned subscription agreement.

The responsive documents contain information that fits the definition of proprietary confidential business information pursuant to Section 366.093(3), and therefore the specified portions of the documents should be afforded confidential treatment by the Commission.

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The Company filed its Sixth Notice of Intent to request confidential classification of these documents on August 3, 2010, and subsequently amended that request on August 17, 2010.

____ CLAIM OF CONFIDENTIALITY
____ NOTICE OF INTENT
 REQUEST FOR CONFIDENTIALITY
____ FILED BY OPC

FOR DN 06839-10, WHICH
IS IN LOCKED STORAGE. YOU MUST BE
AUTHORIZED TO VIEW THIS DN. - CLK

DOCUMENT NUMBER-DATE
6838 AUG 18 2010
FPSC-CONFIDENTIAL

Therefore, pursuant to Rule 25-22.006(3)(a)1, this request is timely. PEF hereby submits the following in support of its confidentiality request:

BASIS FOR CONFIDENTIAL CLASSIFICATION

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. 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, section 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.

The documents, as explained below and in the supporting affidavit of Jeff Lyash, contain sensitive and confidential information that PEF obtains from third-parties pursuant to contractual subscription agreements that govern the terms of the information’s use and distribution. Therefore, disclosure of this information would constitute a breach of these agreements. Publication of this information would also harm the Company’s competitive business interests by adversely affecting PEF’s ability to access this information that the Company requires and relies

upon for purposes of financial planning and strategy. If the third-parties that provide this information to PEF are not secure that their proprietary information will not be distributed in violation of their terms of use, they will not provide the information to PEF or may only do so in return for a payment premium; either of these scenarios will be harmful to the Company and ultimately its ratepayers. See Affidavit of Lyash, ¶ 4.

PEF has kept confidential and has not publicly disclosed the confidential information and amounts at issue here. See id., ¶ 5. Absent such measures, the Company's efforts to obtain competitive contracts and to obtain competitively priced goods and services would be undermined. See id., ¶¶ 5-6.

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 id., ¶ 6. At no time since receiving the information in question has the Company publicly disclosed that information; the Company has treated and continues to treat the information at issue as confidential. Id.

CONCLUSION

The competitive, confidential information and numbers 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 motion, PEF has enclosed the following:

- (1) A separate, sealed envelope containing a CD including the confidential documents as Attachment A to PEF's Request for Confidential Classification for which PEF has requested confidential classification with the appropriate section, pages, or lines containing the

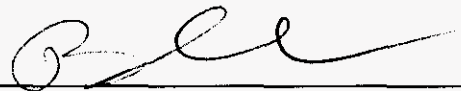
confidential information highlighted. **This information should be accorded confidential treatment pending a decision on PEF's request by the Florida Public Service Commission;**

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

(3) A justification matrix supporting PEF's Request for Confidential Classification of the highlighted information contained in confidential Attachment A, as Attachment C.

WHEREFORE, PEF respectfully requests that the highlighted portions of the documents produced in response to Staff's Fourth Request for Production of Documents (Nos. 10-21), specifically numbers 11, 13 and 21, 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 8th day of August, 2010.



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State of Florida



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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 8/18/10 in the above-referenced docket.

Document Number 06839-10 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.