

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Nuclear cost recovery clause.

DOCKET NO. 090009-EI
ORDER NO. PSC-09-0830-CFO-EI
ISSUED: December 16, 2009

ORDER GRANTING PROGRESS ENERGY OF FLORIDA, INC.'S
REQUEST FOR CONFIDENTIAL CLASSIFICATION
(DOCUMENT NO. 07587-09)

On July 24, 2009, pursuant to Section 366.093, Florida Statutes (F.S.), and Rule 25-22.006(3), Florida Administrative Code (F.A.C.), Progress Energy Florida, Inc. (PEF) filed a request for confidential classification of portions of the Commission's Auditor's Review of Progress' Project Management Internal Controls for Nuclear Plant Uprate and Construction Projects Draft Report (the "Draft Report"), dated July, 2009 (Document No. 07587-09). This request was filed in Docket No. 090009-EI.

Request for Confidential Classification

Section 366.093(1), F.S., 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 Section 119.07(1) [the Public Records Act]." Section 366.093(3), F.S., defines proprietary confidential business information as information that is intended to be and is treated by the company as private, in that disclosure of the information would cause harm to the company's ratepayers or business operations, and has not been voluntarily disclosed to the public. Paragraphs (b), (d) and (e) of Section 366.093, F.S., provide that proprietary confidential business information includes, but is not limited to "[i]nternal auditing controls and reports of internal auditors;" "[i]nformation 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;" and "[i]nformation relating to competitive interests, the disclosure of which would impair the competitive business of the provider of the information."

PEF contends that the information contained in portions of the Draft Report, as more specifically described in the table in Attachment A, falls within these categories and, thus, constitutes proprietary confidential business information entitled to protection under Section 366.093, F.S., and Rule 25-22.006, F.A.C. PEF states that this information is intended to be and is treated by PEF as private and has not been publicly disclosed.

PEF asserts that the Draft Report contains confidential competitive business information, including contractual data, internal audit reports, and other confidential competitive business information, the disclosure of which would harm the Company's competitive business interests and in many cases would violate contractual confidentiality clauses. PEF alleges the Draft Report contains information regarding the contractual agreements necessary for the success of the Levy Nuclear Project (LNP) and the Crystal River Unit 3 Uprate Project (CR3 Uprate), the

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disclosure of which would be a violation of contractually agreed to confidentiality provisions. PEF claims that the release of this information would adversely impact PEF's competitive business interests if disclosed to the public. PEF contends that this report contains information taken directly from the Company's internal audit reports and controls, the disclosure of which would impair the Company's ability to effectively audit and oversee its major projects, by eliminating the confidentiality required for complete cooperation with auditors. PEF asserts that the Draft Report also contains information relating to the planned outage of CR3, including the length and timing of the outage. PEF alleges that if released, this information would allow other market participants to alter their behavior resulting in increased costs to PEF during the period when PEF will be required to purchase power.

Ruling

Upon review, it appears the above-referenced information satisfies the criteria set forth in Section 366.093(3), F.S., for classification as proprietary confidential business information. The information constitutes "[i]nternal auditing controls and reports of internal auditors;" "[i]nformation 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;" and "[i]nformation relating to competitive interests, the disclosure of which would impair the competitive business of the provider of the information." Moreover, none of the documentation discussed herein contains any information regarding the compensation of PEF executives. Thus, the information contained in Document No. 07587-09, as more specifically described in Attachment A, shall be granted confidential classification.

Pursuant to Section 366.093(4), F.S., the information for which confidential classification is granted herein shall remain protected from disclosure for a period of 18 months from the date of issuance of this Order. At the conclusion of the 18-month period, the confidential information will no longer be exempt from Section 119.07(1), F.S., unless PEF or another affected person shows, and the Commission finds, that the records continue to contain proprietary confidential business information.

Based on the foregoing, it is

ORDERED by Commissioner Nathan A. Skop, as Prehearing Officer, that Progress Energy Florida, Inc.'s Request for Confidential Classification of information contained in Document No. 07587-09, as detailed in Attachment A, is granted. It is further

ORDERED that the information in Document No. 07587-09 for which confidential classification has been granted shall remain protected from disclosure for a period of 18 months from the date of issuance of this Order. It is further

ORDERED that this Order shall be the only notification by the Commission to the parties of the date of declassification of the materials discussed herein.

By ORDER of Commissioner Nathan A. Skop, as Prehearing Officer, this 16th day of
December, 2009.



NATHAN A. SKOP
Commissioner and Prehearing Officer

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NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

Mediation may be available on a case-by-case basis. If mediation is conducted, it does not affect a substantially interested person's right to a hearing.

Any party adversely affected by this order, which is preliminary, procedural or intermediate in nature, may request: (1) reconsideration within 10 days pursuant to Rule 25-22.0376, Florida Administrative Code; or (2) judicial review by the Florida Supreme Court, in the case of an electric, gas or telephone utility, or the First District Court of Appeal, in the case of a water or wastewater utility. A motion for reconsideration shall be filed with the Office of Commission Clerk, in the form prescribed by Rule 25-22.060, Florida Administrative Code. Judicial review of a preliminary, procedural or intermediate ruling or order is available if review of the final action will not provide an adequate remedy. Such review may be requested from the appropriate court, as described above, pursuant to Rule 9.100, Florida Rules of Appellate Procedure.

ATTACHMENT A

<p>July 2009 draft of Progress Energy Florida's Project Management Internal Controls for Nuclear Plant Uprate and Construction Projects.</p>	<p>Page 3, second sentence after the word "including" in the fifth paragraph.</p>
	<p>Page 4, the date range in the third full paragraph.</p>
	<p>Page 8, second sentence after the words "receive a" in the first paragraph.</p>
	<p>Page 8, the entire third paragraph.</p>
	<p>Page 8, all of the fourth paragraph except the last sentence.</p>
	<p>Page 9, the entire first paragraph.</p>
	<p>Page 10, entire page except portion of first line and footnote.</p>
	<p>Page 11, two lines, continuation of sentence from prior page and the next full sentence.</p>
	<p>Page 11, first complete paragraph beginning "Burns & Roe" and bullet points.</p>
	<p>Page 12, first full paragraph after the words "contract is."</p>
	<p>Page 12, second full paragraph after the word "contract" and bullet points.</p>
	<p>Page 12, the third and fourth full paragraphs in their entirety.</p>
	<p>Page 13, the first and second full paragraphs with bullet points in their entirety.</p>
	<p>Page 13, the first two sentences of the third paragraph.</p>
	<p>Page 14, the fourth and fifth sentence of the second complete paragraph.</p>
	<p>Page 17, the first sentence of the second paragraph.</p>
	<p>Page 17, dollar mounts and time period in the second sentence of the third paragraph.</p>
	<p>Page 17, the second sentence of the fourth paragraph after the words "which ensured that the".</p>
	<p>Page 17, the fifth paragraph, including bullet points, after the words "its decision was".</p>
	<p>Page 18, all bullet points at top of page and entire first paragraph.</p>
	<p>Page 21, time periods in the third and fourth sentence of the second full paragraph.</p>
	<p>Page 32, the bullet points after the first full paragraph.</p>
	<p>Page 35, the time period in the first sentence of the fourth paragraph.</p>
	<p>Page 36, the entire second paragraph and bullet points except the first sentence.</p>
<p>Page 36, the second and third sentence of the fourth paragraph.</p>	
<p>Page 37, all of the paragraph continued from page 36 except the last sentence.</p>	
<p>Page 37, the third sentence of the fourth complete paragraph.</p>	
<p>Page 42, the fourth sentence of the fourth complete paragraph.</p>	

	Page 42, the fifth paragraph in its entirety.
	Page 44, the sixth paragraph(continues to next page).
	Page 45, continuation of sentence from prior page. The first two full sentences of the partial paragraph the at top of page. The last sentence of the partial paragraph at the top of the page.
	Page 46, all dollar figures and description of payment in table.
	Page 47, all monetary values in the first, second, third and fourth paragraphs.
	Page 48, all dollar figures and description of payment in table.
	Page 49, all dollar figures and description of payment in table and last paragraph.
	Page 50, all dollar figures and description of payment in table.
	Page 51, the second and third sentence of the first paragraph.
	Page 51, the first and second sentence of the second paragraph.
	Page 52, all dollar figures and description of payment in table.
	Page 53, all dollar amounts and payment description in table.
	Page 53, the third and fourth sentence of the third paragraph after the words, contract has a".