

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Petition for Determination of Need for Levy Units 1 and 2 Nuclear Power Plants.

Docket No: 080148-ET

Submitted for Filing: March 11, 2008

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PROGRESS ENERGY FLORIDA, INC'S FIRST REQUEST FOR CONFIDENTIAL CLASSIFICATION OF PORTIONS OF TESTIMONY AND EXHIBITS FILED IN SUPPORT OF PETITION FOR DETERMINATION OF NEED FOR LEVY UNITS 1 AND 2 NUCLEAR POWER PLANTS

Progress Energy Florida ("PEF" or the "Company"), pursuant to Section 366.093, Fla. Stats., and Rule 25-22.006, F.A.C., requests confidential classification of portions of the pre-filed testimony and an exhibit of Daniel L. Roderick, specifically confidential land acquisition costs and scheduling information contained in Exhibit No. \_\_\_ (DLR-6). The unredacted testimony and exhibit discussed above are being filed under seal with the Commission on a confidential basis to keep the competitive business information in those documents confidential.

The Confidentiality of the Testimony and Exhibit at Issue

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. Stats. Proprietary confidential business information means

- CMP information that is (i) intended to be and is treated as private confidential information by the
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CTR Company, (ii) because disclosure of the information would cause harm, (iii) either to the
ECR Company's ratepayers or the Company's business operation, and (iv) the information has not
GCL been voluntarily disclosed to the public. § 366.093(3), Fla. Stats. Specifically, "information...
OPC
RCA the disclosure of which would impair the efforts of the public utility or its affiliates to contract
SCR for goods or services on favorable terms" is defined as proprietary confidential business
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information. § 366.093(3)(d), Fla. Stats. 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 pre-filed testimony of Daniel L. Roderick should be afforded confidential treatment for the reasons set forth in the Affidavit of Daniel L. Roderick filed in support of PEF’s First Request for Confidential Classification and for the following reasons. Mr. Roderick’s testimony contains the land acquisition costs for the Levy Nuclear sites. Both sites were purchased pursuant to contracts that contain confidentiality provisions. PEF is requesting confidential classification of this testimony because public disclosure of the information in question would violate these confidentiality agreements between PEF and its land sellers and would impair PEF’s ability to contract for real estate on competitive and favorable terms.

PEF negotiates with potential landowners to obtain competitive contracts for real property that provide economic value to PEF and its ratepayers. (Affidavit of Daniel L. Roderick at ¶ 5). In order to obtain such contracts, however, PEF must be able to assure these landowners that sensitive business information, such as the quantity and pricing terms of their contracts, will be kept confidential. Id. PEF has kept confidential and has not publicly disclosed the proprietary contract terms and provisions at issue here. Id. Absent such measures, PEF would run the risk that sensitive business information regarding what it is willing to pay for real property would be made available to the public and, as a result, other potential sellers of real property could change their position in their negotiations with PEF for the future purchase of other real property. Id. Without PEF’s measures to maintain the confidentiality of sensitive terms in these real property purchase contracts, the Company’s efforts to obtain competitive land contracts would be

undermined. Id. In addition, by the terms of these contracts, all parties, including PEF, have agreed to protect proprietary and confidential information, which is defined to include the price, from public disclosure. Id.

Exhibit No. \_\_\_\_ (DLR-6) to Mr. Roderick's testimony should be afforded confidential treatment for the reasons set forth in the Affidavit of Daniel L. Roderick filed in support of PEF's First Request for Confidential Classification and for the following reasons. Exhibit No. \_\_\_\_ (DLR-6) contains sensitive business information regarding the Company's planned construction schedule for Levy Units 1 and 2. PEF is requesting confidential classification of this exhibit because public disclosure of the information in question would allow other parties to discover when the Company plans to purchase and install various pieces of equipment for the Levy Units and would thus impair PEF's ability to contract for such services on competitive and favorable terms.

PEF must negotiate and contract for certain pieces of equipment well in advance of the actual installation of that equipment. If potential vendors and utilities or other potential purchasers competing for the equipment orders knew when PEF must purchase such equipment, PEF's ability to negotiate for and timely obtain such equipment will likely be impaired. (Affidavit of Daniel L. Roderick at ¶ 7). In order to obtain competitive contracts for the benefit of its ratepayers, PEF must be able to negotiate for long-lead items without potential vendors or competing purchasers knowing when the equipment must be ordered to meet deadlines. For example, if potential vendors or competing purchasers knew that PEF needed a particular piece of equipment by a certain date, they may change their behavior in the marketplace to the detriment of PEF's ratepayers. Id. PEF has kept confidential and has not publicly disclosed the proprietary schedule terms and provisions at issue here. Id.

Upon receipt of this confidential information, and with its own confidential information, strict procedures are established and followed to maintain the confidentiality of the terms 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 and contracts. (Affidavit of Daniel L. Roderick at ¶ 8). At no time since negotiating and receiving the contracts and preparing the schedule information in question has the Company publicly disclosed that information or contracts. Id. The Company has treated and continues to treat the schedule information and contracts at issue as confidential. Id.

### Conclusion

The land acquisition costs and the schedule for nuclear construction fit the statutory definition of proprietary confidential business information under Section 366.093 and Rule 25-22.006, F.A.C., and 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 First 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;**

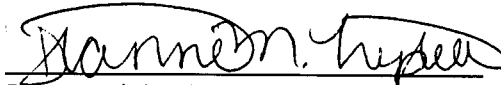
(2). Two copies of the documents with the information for which PEF intends to request confidential classification redacted by section, page, or lines where appropriate as Appendix B; and

(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 pre-filed testimony and exhibit of Daniel L. Roderick be classified as confidential for the reasons set forth above.

Respectfully submitted this 11th day of March, 2008.

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## ACKNOWLEDGEMENT

DATE: March 11, 2008

TO: Diane Triplett/Progress Energy Florida

FROM: *M. Sanders*  
M. Sanders, Office of Commission Clerk

RE: Acknowledgement of Receipt of Confidential Filing

This will acknowledge receipt of a **CONFIDENTIAL DOCUMENT** filed in Docket Number 080148-EI or, if filed in an undocketed matter, concerning Daniel Roderick direct testimony & exhibit, and filed on behalf of Progress Energy Florida. The document will be maintained in locked storage.

If you have any questions regarding this document, please contact Marguerite Lockard, Deputy Clerk, at (850) 413-6770.

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