

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition by Progress Energy Florida, Inc. to establish discovery docket regarding actual and projected costs for the Levy Nuclear Project

Docket No. 080149 - EI

Submitted for Filing: April 22, 2008

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PROGRESS ENERGY FLORIDA'S FIRST REQUEST FOR CONFIDENTIAL CLASSIFICATION

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 Exhibit No \_\_ (WG-1), specifically portions of Schedules T-8 and T-8A, contain proprietary information regarding contracts between PEF and third-party contractors that PEF has contracts with. The unredacted documents 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 Documents 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

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. Stats. Specifically, "information...

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

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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 Exhibit No. \_\_ (WG-1), Schedules T-8 and T-8A, should be afforded confidential treatment for the reasons set forth in the Affidavit of Garry D. Miller filed in support of PEF’s First Request for Confidential Classification and for the following reasons. These Nuclear Filing Requirement (“NFR”) Schedules call for information regarding confidential contracts between PEF and real estate contractors. PEF is requesting confidential classification of these schedules because public disclosure of the documents and information in question would violate confidentiality agreements between PEF and its contractors and would impair PEF’s ability to contract for real property on competitive and favorable terms.

PEF negotiated with real estate owners and companies to obtain competitive contracts for projects that provide economic value to PEF and its ratepayers. (Affidavit of Garry D. Miller at ¶ 5). In order to obtain such contracts, however, PEF must be able to assure these third parties that sensitive business information, such as the term length 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, contractors would run the risk that sensitive business information that they provided in their contracts with PEF would be made available to the public and, as a result, end up in possession of potential competitors. Id. Faced with that risk, persons or companies who otherwise would contract with PEF might decide not to do so if PEF did not keep those terms of their contracts confidential. Id. Without PEF’s measures to maintain the confidentiality of sensitive terms in contracts between PEF and contractors, the Company’s efforts to obtain competitive 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 contractual terms, from public disclosure. Id.

Additionally, the disclosure of confidential information in PEF's contracts would adversely impact PEF's competitive business interests. (Affidavit of Garry D. Miller at ¶ 6). If such information was disclosed to PEF's competitors, PEF's efforts to obtain competitive contracting options that provide economic value to both PEF and its ratepayers would be compromised. 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 Garry D. Miller at ¶ 7). At no time since receiving the contracts and information in question has the Company publicly disclosed that information or contracts. Id. The Company has treated and continues to treat the information and contracts at issue as confidential. Id.

### **Conclusion**

The details regarding PEF's contracts with contractors 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;**

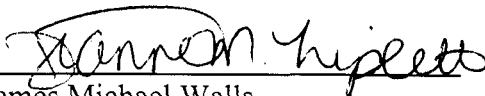
(2). Two copies of the documents with the information for which PEF intends to request confidential classification redacted by section, page, or lines where appropriate as Appendix B; and

(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 Exhibit No. \_\_\_ (WG-1) be classified as confidential for the reasons set forth above.

Respectfully submitted this 22<sup>nd</sup> day of April, 2008.

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**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by electronic mail and/or U.S. Mail as indicated to the all counsel and parties of record on this 22<sup>nd</sup> day of April, 2008.

  
Attorney

COUNSEL AND PARTIES OF RECORD:

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**CONFIDENTIAL**

**Public Service Commission**

**ACKNOWLEDGEMENT**

DATE: April 22, 2008

TO: Dianne Triplet, Michael Walls/Carlton Fields

FROM: Ruth Nettles, Office of Commission Clerk

RE: **Acknowledgement of Receipt of Confidential Filing**

This will acknowledge receipt of a **CONFIDENTIAL DOCUMENT** filed in Docket Number 080149-EI or, if filed in an undocketed matter, concerning Portions of Exhibit WG-1, specifically portions of Schedules T-8 and T-8A, and filed on behalf of Progress Energy. 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.

DOCUMENT NUMBER - DATE  
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