

COMMISSION
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In re: Petition for determination of need
for Levy Units 1 and 2 nuclear power plants,
by Progress Energy Florida, Inc.

Docket No. 080148-EI

Submitted for Filing: May 1, 2008

**PROGRESS ENERGY FLORIDA'S FOURTH REQUEST FOR CONFIDENTIAL
CLASSIFICATION REGARDING STAFF'S SECOND REQUEST FOR PRODUCTION
OF DOCUMENTS AND THIRD SET OF INTERROGATORIES**

Progress Energy Florida ("PEF" or the "Company"), pursuant to Section 366.093, Fla. Stats., and Rule 25-22.006, F.A.C., files this Request for Confidential Classification for PEF's responses to Staff's Second Request for Production of Documents (Nos. 4-15), Request 15, and Staff's Third Set of Interrogatories (Nos. 43-59), Number 54. Specifically, these responses contain sensitive, confidential contractual terms for nuclear goods and services, as well as confidential draft agreements and correspondence with potential joint owners, that if disclosed would result in the impact PEF's ability to contract on favorable terms in the future.

Accordingly, PEF hereby submits the following.

Basis for Confidential Classification

CMP _____ Subsection 366.093(1), Florida Statutes, provides that "any records received by the
COM _____ Commission which are shown and found by the Commission to be proprietary confidential
CTR _____
ECR 1 business information shall be kept confidential and shall be exempt from [the Public Records
GCL 1 Act]." § 366.093(1), Fla. Stats. Proprietary confidential business information means
OPC _____
RCA _____ information that is (i) intended to be and is treated as private confidential information by the
SCR _____ Company, (ii) because disclosure of the information would cause harm, (iii) either to the
SGA _____ Company's ratepayers or the Company's business operation, and (iv) the information has not
SEC _____
OTH 1 been voluntarily disclosed to the public. § 366.093(3), Fla. Stats. Specifically, subsection

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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.

Staff’s Second Request for Production No. 15

PEF’s response to Staff’s Second Request for Production number 15, including its supplemental responses, should be afforded confidential treatment for the reasons set forth in the Affidavit of Jeff Lyash filed in support of PEF’s Request for Confidential Classification and for the following reasons. Specifically, the documents responsive to this request contain confidential draft agreements and correspondence with potential joint owners regarding negotiations for joint ownership in PEF’s proposed nuclear units. Disclosure of these documents would impair PEF’s competitive business interests by inhibiting the Company’s on-going negotiations with the potential joint owners. See Affidavit of Jeff Lyash at ¶ 5. For example, if third parties had knowledge of the status of these on-going negotiations, the potential joint owners with whom PEF is negotiating may not be as willing to share essential information with PEF. Id. This reduces PEF’s leverage in negotiating with these potential joint owners and could affect the outcome of the negotiations to PEF’s detriment. Id.

Disclosure of this information would also violate the terms of the confidentiality agreements PEF has entered into with each of the potential joint owners. See Affidavit of Jeff Lyash at ¶ 6. Specifically, the confidentiality agreements require PEF and the joint owners to maintain as confidential not only the terms of the agreement, but also all communication between PEF and the joint owners regarding the negotiations. Id. Therefore, this highly sensitive, confidential information must not be made publicly available.

Upon receipt of this confidential information, and with its own confidential information, strict procedures are established and followed to maintain the confidentiality 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. (Id. at ¶ 7). At no time since receiving the information in question has the Company publicly disclosed that information. Id. The Company has treated and continues to treat the information at issue as confidential. Id.

Responses to Staff Interrogatory Number 54

Portions of the response to Staff's Interrogatory Number 54 contains confidential contractual information regarding the purchase of equipment and services necessary to complete the Levy Nuclear Project. Part of this response contains information regarding a contractual arrangement between PEF and a provider of nuclear equipment and services that would adversely impact PEF's competitive business interests if disclosed to the public. See Affidavit of Daniel L. Roderick at ¶ 5. PEF must be able to assure this vendor that sensitive business information, such as the terms of its contract, will be kept confidential. Id. Indeed, the contract at issue contains a confidentiality provision that prohibit the disclosure of the terms of the contract to third parties. Id.

Specifically, the information at issue relates to competitively negotiated contractual data and other contractual terms, the disclosure of which would impair the efforts of the Company to negotiate these contracts on favorable terms. See § 366.093(3)(d), Fla. Stats.; Affidavit of Roderick at ¶ 5. If other third parties were made aware of confidential contractual terms that PEF has with other parties, they may offer PEF less competitive contractual terms in future contractual negotiations. Id. Without PEF's measures to maintain the confidentiality of

sensitive terms in contracts between PEF and this nuclear contractor, the Company's efforts to obtain competitive contracts for the Levy Nuclear Project could be undermined. 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 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. (Id. at ¶ 6). At no time since receiving the information in question has the Company publicly disclosed that information. Id. The Company has treated and continues to treat the information at issue as confidential. Id.

Conclusion

The competitive, confidential information at issue in this request fits the statutory definition of proprietary confidential business information under Section 366.093 and Rule 25-22.006, F.A.C. Separate sealed envelopes containing one copy of the confidential exhibits for which PEF intends to request confidential classification with the appropriate section, pages, or lines containing the confidential information highlighted is enclosed herewith as Attachment "A." **This information should be accorded confidential treatment pending a decision on PEF's request by the Florida Public Service Commission.**

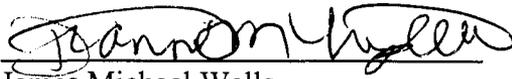
Additionally, two copies of the confidential exhibits with the information that PEF intends to request confidential classification redacted by section page, or lines, are also included herewith as Attachment "B."

Attachment "C" hereto contains a justification matrix supporting PEF's request for confidential classification of the highlighted information contained in Attachment A.

WHEREFORE, PEF respectfully requests that the responses to Staff's Second Request for Production of Documents (Nos. 4-15), Request 15, and Staff's Third Set of Interrogatories (Nos. 43-59), Number 54, described specifically in Attachment C, be classified as confidential for the reasons set forth above.

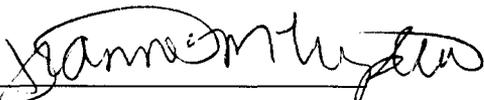
Respectfully submitted this 1st day of ~~April~~ ^{May}, 2008.

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished via electronic and U.S. Mail this 1st day of ~~April~~ ^{May}, 2008 to all parties of record as indicated below.


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CONFIDENTIAL

Public Service Commission

ACKNOWLEDGEMENT

DATE: May 1, 2008

TO: Dianne M. Triplett, 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 080148 or, if filed in an undocketed matter, concerning responses to staff's 2nd request for PODs, (Nos. 4-15) Request 15, and staf's 3rd set of interrogatories, (Nos. 43-59) No. 54, and filed on behalf of Progress. 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-DAT
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