

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-~~EL~~

Submitted for Filing: July 10, 2008

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PROGRESS ENERGY FLORIDA'S THIRD 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 the documents responsive to Staff's First Request for Production of Documents (Nos. 1-7), specifically portions of documents responsive to Request Number 4, which contain the Company's proprietary business analysis regarding costs and budgets for an on-going project, that if disclosed would impact PEF's ability to contract on favorable terms in the future. In addition, the CD produced in response to Request 6 contain electronic versions of confidential NFR schedules that were attached to the testimony of Lori Cross and which are the subject of PEF's Second Request for Confidential Classification, filed May 22, 2008. 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

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CDMP records

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 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.

PEF's Response to Staff's First Request for Production of Documents No. 4

Portions of the documents responsive to Staff's First Request for Production of Documents (Nos. 1-7), specifically portions of documents responsive to Request Number 4, should be afforded confidential treatment for the reasons set forth in the Affidavit of Daniel L. Roderick filed in support of PEF's Third Request for Confidential Classification and for the following reasons. Staff's Request Number 4 calls for the confidential business analysis regarding costs and budgets for the ongoing Levy Nuclear Project. PEF is requesting confidential classification of this information because public disclosure of the information in question would allow other parties to discover how the Company analyzes whether to proceed with the Levy Nuclear Project, including detailed analysis of risk options, scheduling, and cost, and would thus impair PEF's ability to contract for such goods and services on competitive and favorable terms. See Affidavit of Roderick at ¶ 5.

If this information was disclosed to the public, it could adversely impact PEF's competitive interests. See Affidavit of Roderick at ¶ 5. This document reflects the Company's internal strategies for evaluating projects and meeting deadlines. Id. If such information was

disclosed to PEF's competitors and/or other potential suppliers, PEF's efforts to obtain competitive nuclear equipment and service options that provide economic value to both PEF and its ratepayers could be compromised by PEF's competitors and/or suppliers changing their offers, consumption, or purchasing behavior within the relevant markets. Id. For example, if one of PEF's suppliers was to know that PEF considered a particular good or service to be of utmost importance to the project, that supplier could artificially increase the asking price for that good or service, to the detriment of the ratepayers.

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, and restricting the number of, and access to the information. (Affidavit of Daniel L. Roderick 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.

CD Produced in Response to Request 6

The CD produced in response to Staff's Request 6 contains electronic versions of confidential NFR schedules, which were attached to Lori Cross' testimony and which are the subject of PEF's Second Request for Confidential Classification, filed May 22, 2008. These electronic files are confidential for the reasons and justifications previously provided in that request for confidential classification. For ease of reference, attached to this Third Request for Confidential Classification, as part of Exhibit A, is the confidential CD. In addition, two copies of the redacted CD are attached to Exhibit B to this request.

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., and that information should be afforded confidential classification. In support of this motion, PEF has enclosed the following:

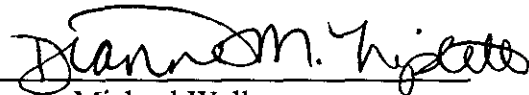
(1). A separate, sealed envelope containing one copy of the confidential Appendix A to PEF's Third Request for Confidential Classification for which PEF intends to request confidential classification with the appropriate section, pages, or lines containing the confidential information highlighted. **This 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 its responses to Staff's First Second Request for Production, Nos. 1-7, specifically Request 4, be classified as confidential for the reasons set forth above.

Respectfully submitted,



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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 10th day of July, 2008.


Attorney

COUNSEL AND PARTIES OF RECORD:

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Public Service Commission

ACKNOWLEDGEMENT

DATE: July 10, 2008

TO: Dianne M. Triplett, Esquire/Progress

FROM: Marguerite H. McLean, 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 (DN 05952-08) or, if filed in an undocketed matter, concerning responses to staff's 1st request for production of documents (No. 4), 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 McLean, Deputy Clerk, at (850) 413-6770.