

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Nuclear Power Plant Cost
Recovery Clause

Docket No. 080009-EI

Submitted for Filing: July 10, 2008

**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 OPC's Second Request for Production of Documents (Nos. 12-57), specifically portions of documents responsive to Request Number 12, Request Number 33 and Request Number 54, which contain confidential internal audits, confidential cost projections, and confidential bid and contracting strategies and analyses, the disclosure of which would impair PEF's competitive business. The documents at issue are subject to a pending Notice of Intent to Request Confidential Classification, filed June 19, 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

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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 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. Subsection 366.093(3)(b) further defines "internal auditing controls and reports of internal audits" as proprietary confidential business information.

PEF's Response to OPC's Second Request for Production of Documents No. 12

Documents responsive to OPC's Second Request for Production of Documents (Nos. 12-57), specifically portions of documents responsive to Request Number 12, should be afforded confidential treatment for the reasons set forth in the Affidavit of Raymond Phillips filed in support of PEF's Third Request for Confidential Classification and for the following reasons. The documents produced in response to this request are the internal audit reports and workpapers that resulted from the internal audit of the CR3 Uprate Project. (Affidavit of Raymond Phillips at ¶ 5). PEF is requesting confidential classification of these reports and workpapers because public disclosure of the documents and information in question would compromise PEF's ability to effectively audit the Company's major projects. Id. If the Company were to know that its internal auditing

controls and process were subject to public disclosure, it may not be as thorough while conducting such audits. Id. In addition, such information and documents are specifically defined by Section 366.093(3)(b) as proprietary confidential business information that is entitled to confidential status. Id.

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 Raymond Phillips 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.

PEF's Response to OPC's Second Request for Production of Documents No. 33

Portions of the documents responsive to OPC's Second Request for Production of Documents (Nos. 12-57), specifically portions of documents responsive to Request Number 33, 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. OPC's Request Number 33 calls for documents that contain information regarding PEF's confidential and proprietary cost projections for the project for the remainder of 2008 and 2009. PEF is requesting confidential classification of its responses because public disclosure of the documents and information in question would impair PEF's competitive business interests. (Affidavit of Daniel L. Roderick at ¶ 5). Specifically, portions of these documents reflect the Company's confidential cost projections regarding labor and materials. (Id.)

If PEF's suppliers or competitors were made aware of PEF's detailed cost projections to obtain certain goods and services, they may adjust their behavior in the market place with respect to activity such as pricing and the acquisition and provision of such goods, materials, and services. (Id.) In other words, if these third parties know what PEF expects to have to pay for these goods and services, then those third parties have leverage in negotiating for these goods and services. (Id.) This would impair PEF's ability to obtain competitive contracts, with favorable terms, that provide economic value to PEF and its ratepayers. (Id.)

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 ¶ 8). 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.

PEF's Response to OPC's Second Request for Production of Documents No. 54

Portions of the documents responsive to OPC's Second Request for Production of Documents (Nos. 12-57), specifically portions of documents responsive to Request Number 54, 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. OPC's Request Number 54 calls for documents that contain information regarding PEF's confidential and proprietary internal bid and contracting strategies and analyses. PEF is requesting confidential classification

of its responses because public disclosure of the documents and information in question would impair PEF's competitive business interests (Affidavit of Daniel L. Roderick at ¶ 6). Specifically, if PEF's suppliers or competitors were made aware of how PEF analyzes bid responses and chooses contract vendors, they may adjust their behavior in the market place with respect to activity such as pricing and the acquisition and provision of goods, materials, and services. (Id. at ¶ 7) This would impair PEF's ability to obtain competitive contracts, with favorable terms, that provide economic value to PEF and its ratepayers. (Id.)

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 ¶ 8). 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., 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;**

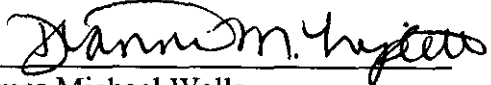
(2). Two copies of the documents with the information for which PEF intends to request confidential classification redacted by section, page, or lines where appropriate as Appendix B; and

(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 OPC's Second Request for Production, Nos. 12-57, Requests 12, 33, and 54, be classified as confidential for the reasons set forth above.

Respectfully submitted this 10th day of July, 2008.

R. Alexander Glenn
General Counsel – Florida
John T. Burnett
Associate General Counsel
PROGRESS ENERGY SERVICE
COMPANY, LLC
Post Office Box 14042
St. Petersburg, FL 33733-4042
Telephone: (727) 820-5587
Facsimile: (727) 820-5519


James Michael Walls
Florida Bar No. 0706242
Dianne M. Triplett
Florida Bar No. 0872431
CARLTON FIELDS, P.A.
4421 W. Boy Scout Blvd.
Ste. 1000 (33607)
Post Office Box 3239
Tampa, FL 33601-3239
Telephone: (813) 223-7000
Facsimile: (813) 229-4133

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of Progress Energy Florida, Inc.'s Third Request for Confidential Classification in Docket No. 080009-EI has been furnished electronically and by regular U.S. mail to the following this 10th day of July, 2008.



Attorney

Mr. Paul Lewis, Jr.
Progress Energy Florida, Inc.
106 East College Avenue, Ste. 800
Tallahassee, FL 32301-7740
Phone: (850) 222-8738
Facsimile: (850) 222-9768
Email: paul.lewisjr@pgnmail.com

Lisa Bennett
Jennifer Brubaker
Staff Attorney
Florida Public Service Commission
2540 Shumard Oak Blvd
Tallahassee 32399
Phone: (850) 413-6218
Facsimile: (850) 413-6184
Email: lbennett@psc.state.fl.us
jbrubake@psc.state.fl.us

Stephen C. Burgess
Associate Counsel
Office of Public Counsel
c/o The Florida Legislature
111 West Madison Street
Room 812
Tallahassee, FL 32399-1400
Phone: (850) 488-9330
Email: burgess.steve@leg.state.fl.us

R. Wade Litchfield
John Butler
Florida Power & Light
700 Universe Boulevard
Juno Beach, FL 33408-0420
Phone: (561) 691-7101
Facsimile: (561) 691-7135
Email: wade_litchfield@fpl.com
John_butler@fpl.com

John W. McWhirter
McWhirter Law Firm
400 North Tampa Street, Ste. 2450
Tampa, FL 33602
Phone: (813) 224-0866
Facsimile: (813) 221-1854
Email: jmcwhirter@mac-law.com

James W. Brew
Brickfield Burchette Ritts & Stone, PC
1025 Thomas Jefferson St NW
8th FL West Tower
Washington, DC 20007-5201
Phone: (202) 342-0800
Fax: (202) 342-0807
Email: jbrew@bbrslaw.com

-and-

Michael B. Twomey
AARP
Post Office Box 5256
Tallahassee, FL 32305
Phone: (850) 421-9530
Email: Miketwomey@talstar.com

Karin S. Torain
PCS Administration (USA), Inc.
Suite 400
Skokie Blvd.
Northbrook, IL 60062
Phone: (847) 849-4291
Email: KSTorain@potashcorp.com

COMMISSIONERS:
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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 080009-EI (DN 05957-08) or, if filed in an undocketed matter, concerning responses to OPC's 2nd request for production of documents (Nos. 12, 33, and 54), 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.

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Internet E-mail: contact@psc.state.fl.us