

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Nuclear Power Plant Cost
Recovery Clause

Docket No. 080009-EI
Submitted for Filing: August 2008

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**PROGRESS ENERGY FLORIDA'S FIFTH 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 late-filed deposition exhibits of Daniel L. Roderick. Specifically, documents responsive to the request for Late-Filed Exhibits 3, 7, and 8 contain confidential and sensitive analyses and project plans done by the Company, including detailed analysis of risk options, scheduling, and costs. These documents reflect the Company's internal strategies for evaluating projects and meeting deadlines. In addition, documents responsive to the request for Late-Filed Exhibit 5 contain confidential internal audit reports and workpapers, which includes PEF's proprietary confidential business information. Late-Filed Exhibit 9 contains the confidential, proprietary information of a third party vendor, which PEF has a contractual obligation to maintain as confidential. The documents at issue are subject to a pending Notice of Intent to Request Confidential Classification, filed July 11, 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

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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 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.

Roderick Late-Filed Deposition Exhibits 3, 7 and 8

Portions of Late-Filed Deposition Exhibits 3, 7 and 8, contain confidential and sensitive analyses and project plans done by the Company. These documents reflect the Company’s internal strategies for evaluating projects and meeting deadlines. 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 CR3 Uprate 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. Id.

Roderick Late-Filed Deposition Exhibit 5

Late-Filed Deposition Exhibit 5, contain confidential internal audit reports and workpapers, which includes PEF's proprietary confidential business information. These documents are the internal audit reports and workpapers that resulted from various internal audits and surveillance reports regarding the CR3 Uprate Project. (Affidavit of Daniel L. Roderick at ¶ 6). 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.

Roderick Late-Filed Exhibit No. 9

Late-filed Exhibit 9 contains the confidential, proprietary information of a third-party vendor, which PEF has a contractual obligation to maintain as confidential. This exhibit contains the proprietary information developed by PEF's contractor pursuant to an ongoing contract. Affidavit of Daniel L. Roderick at ¶ 8. PEF must be able to assure vendors that sensitive business information, such as their proprietary work product, will be kept confidential. Id. Indeed, PEF must maintain this proprietary information as confidential pursuant to a confidentiality provision in its contract with the third party vendor. Id.

Upon receipt of all 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. (Affidavit of Roderick at ¶ 9). 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 Fifth 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 Roderick's Late-Filed Deposition Exhibits Nos. 3, 5, 7, 8 and 9, be classified as confidential for the reasons set forth above.

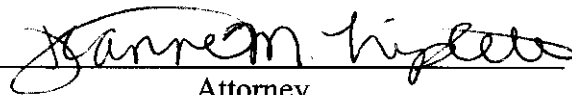
Respectfully submitted this 1st day of August, 2008.

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing in Docket No. 080009-EI has been furnished electronically and by regular U.S. mail to the following this 1st day of August, 2008.



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ACKNOWLEDGEMENT

DATE: August 1, 2008

TO: Dianne Triplett

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 080009 or, if filed in an undocketed matter, concerning portions of late-filed deposition Exhibits of Daniel L. Roderick, specifically, documents responsive to request for Late-filed Exhibits 3, 7, and 8, 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.

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