

**BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

In re: Nuclear Cost Recovery Clause

Docket No. 090009-EI  
Submitted for Filing: March 2, 2009

**PROGRESS ENERGY FLORIDA'S REQUEST FOR CONFIDENTIAL CLASSIFICATION REGARDING EXHIBITS FILED WITH THE TESTIMONY OF WILL GARRETT**

Progress Energy Florida ("PEF" or the "Company"), pursuant to Section 366.093, Fla. Stat., and Rule 25-22.006(3), F.A.C., requests confidential classification of portions of the Exhibit WG-1 and WG-2 (collectively the "Exhibits") to the testimony of Will Garrett, filed with the Public Service Commission ("PSC" or the "Commission") March 2, 2009. The Exhibits contain confidential and sensitive contractual information regarding the Company's nuclear projects, the disclosure of which would impair PEF's competitive business and ability to negotiate favorable contracts, as well as violate the contracts' nondisclosure provisions. The unredacted documents discussed above are being filed under seal with the Commission as Appendix A 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. Stat. 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

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to the public. § 366.093(3), Fla. Stat. Specifically, “information concerning bids or other contractual data, 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. Stat. 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 the Exhibits to the Testimony of Will Garrett contain confidential contractual information regarding the purchase of equipment, materials, services and real property necessary for the construction and operation of the Levy Nuclear Power Project (“LNP”) and the Crystal River Unit 3 (“CR3”) Power Uprate Project (“CR3 Uprate” and collectively with LNP as the “Nuclear Projects”). Certain of these documents contain contractual quantities and pricing arrangements between PEF and third parties that would adversely impact PEF’s competitive business interests if disclosed to the public. See Affidavit of Steven Huntington at ¶ 3; Affidavit of Garry D. Miller at ¶ 3. PEF must be able to assure third parties that enter contractual agreements with the Company that sensitive business information, such as the pricing and quantity terms of their contracts, will be kept confidential. See Affidavit of Garry D. Miller at ¶ 3; Affidavit of Huntington at ¶ 3. Indeed, some of the contracts at issue contain confidentiality provisions that prohibit the disclosure of the terms of the contract to third parties. Id. at ¶ 4.

Specifically, the information at issue relates to competitively negotiated contractual data, such as the price PEF is willing to pay for real property, the duration of service contracts and other contractual terms including sensitive pricing information, the disclosure of which would impair the efforts of the Company to negotiate such contracts on favorable terms. See §

366.093(3)(d), Fla. Stat.; Affidavit of Miller at ¶ 3. If 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. See Affidavit of Miller at ¶ 4. Absent the Company's measures to maintain the confidentiality of sensitive terms in contracts between PEF and vendors, the Company's efforts to obtain competitively priced supply and service contracts could be undermined. Id. at ¶ 4; Affidavit of Huntington at ¶ 4.

Strict procedures are established and followed to maintain the confidentiality of the terms of the confidential documents and information at issue, including restricting access to those persons who need the information and documents to assist the Company. See Affidavit of Miller at ¶¶ 4-5; Affidavit of Huntington at ¶¶ 4-5. At no time has the Company publicly disclosed the confidential information or documents at issue; PEF has treated and continues to treat the information and documents at issue as confidential. Affidavit of Miller at ¶ 5; Affidavit of Huntington at ¶ 5. PEF requests this information be granted confidential treatment by the Commission.

### **Conclusion**

The competitive, confidential information at issue in this request fits the statutory definition of proprietary confidential business information under Section 366.093, Florida Statutes, and Rule 25-22.006, F.A.C., and therefore 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 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;**

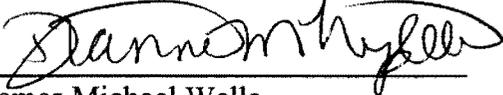
(2) Two copies of the documents with the information for which PEF intends to request confidential classification redacted by section, page, or lines where appropriate as Appendix B; and,

(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 the Exhibits to the Testimony of Will Garrett be classified as confidential for the reasons set forth above.

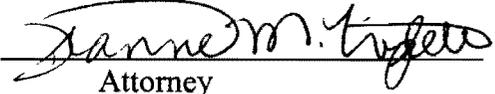
Respectfully submitted this day of March 2, 2009.

R. Alexander Glenn  
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.  
Post Office Box 3239  
Tampa, FL 33601-3239  
Telephone: (813) 223-7000  
Facsimile: (813) 229-4133

CERTIFICATE OF SERVICE

I HEREBY CERTIFY a true and correct copy of the foregoing has been furnished to counsel and parties of record as indicated below via electronic and U.S. Mail this 2<sup>nd</sup> day of March, 2009.

  
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](mailto: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](mailto:lbennett@psc.state.fl.us)  
[jbrubake@psc.state.fl.us](mailto:jbrubake@psc.state.fl.us)

Charles Rehwinkle  
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: [rehwinkle.charles@leg.state.fl.us](mailto:rehwinkle.charles@leg.state.fl.us)

Bryan S. Anderson  
Jessica Cano  
Florida Power & Light  
700 Universe Boulevard  
Juno Beach, FL 33408-0420  
Phone: (561) 691-7101  
Facsimile: (561) 691-7135  
Email: [bryan.anderson@fpl.com](mailto:bryan.anderson@fpl.com)  
[jessica.cano@fpl.com](mailto:jessica.cano@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](mailto: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](mailto:jbrew@bbrslaw.com)

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

Thomas Saporito  
Saporito Energy Consultants  
Post Office Box 8413  
Jupiter, FL 33468-8413  
Phone: (561) 283-0613  
Email: [saporito3@gmail.com](mailto:saporito3@gmail.com)

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## ACKNOWLEDGEMENT

DATE: March 2, 2009

TO: James Michael Walls, 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 090009 or, if filed in an undocketed matter, concerning portions of Exhibits WG-1, and 2, to testimony of Will Garrett, 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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Internet E-mail: [contact@psc.state.fl.us](mailto:contact@psc.state.fl.us)