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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

IN RE: NUCLEAR POWER PLANT COST
RECOVERY CLAUSE

Docket No. 0909-1
Submitted for Filing May 14, 2009

**PROGRESS ENERGY FLORIDA'S REQUEST FOR CONFIDENTIAL
CLASSIFICATION REGARDING AUDIT REPORT NO. 08-248-2-3**

Progress Energy Florida, Inc. ("PEF" or the "Company"), pursuant to Sections 366.093, Florida Statutes, and Rule 25-22.006(3), Florida Administrative Code, requests confidential classification of portions of the documents and information provided to Florida Public Service Commission Staff's ("Staff") auditors in response to Staff's review, *Audit Control No. 08-248-2-3*. These documents contain confidential contractual information, the disclosure of which would impair PEF's competitive business interests and violate PEF's confidentiality agreements with third parties. The unredacted documents are being filed under seal with the Commission on a confidential basis to keep the competitive business information in those documents confidential.

BASIS FOR CONFIDENTIAL CLASSIFICATION

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 to the public. § 366.093(3), Fla. Stat. Specifically, "information concerning bids or other

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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, section 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 aforementioned audit response should be afforded confidential classification for the reasons set forth in the Affidavit of Jon Franke filed in support of PEF’s Request for Confidential Classification, and for the following reasons. Specifically, portions of these responses contain confidential contractual data, including pricing agreements and other confidential contractual terms, the release of which would impair PEF’s competitive business interests, and would further be a violation of the PEF’s confidentiality agreements. See Affidavit of Jon Franke at ¶ 4.

The audit responses contain work authorization contractual amendments and other contractual data that are subject to confidentiality agreements between PEF and the other contracting parties. PEF negotiates each of its contracts to obtain the most competitive terms available to benefit PEF and its ratepayers. In order to successfully obtain such contracts, however, PEF must be able to assure the other parties to the contracts that the sensitive business information contained therein, such as quantity and pricing terms, will remain confidential. PEF has kept confidential and has not publicly disclosed the proprietary contract terms and provisions at issue here. Absent such measures, PEF would run the risk that sensitive business information regarding what it is willing to pay for certain goods and services, as well as what the Company is willing to accept as payment for certain goods and/or services, would be made to available to the

public and, as a result, other potential suppliers, vendors, and/or purchasers of such services could change their position in future negotiations with PEF. Without PEF's measures to maintain the confidentiality of sensitive terms in these contracts, the Company's efforts to obtain competitive contracts would be undermined. In addition, by the terms of these contracts, all parties, including PEF, have agreed to protect the proprietary and confidential information, defined to include pricing arrangements, from public disclosure. 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. Id. at ¶ 5. 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, Florida Statutes, and Rule 25-22.006, Florida Administrative Code, and that information should be afforded confidential classification. In support of this motion, PEF has enclosed the following:

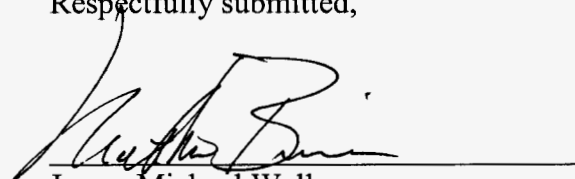
- (1) A separate, sealed envelope containing one copy of the confidential Appendix A to PEF's Request for Confidential Classification for which PEF has requested confidential classification with the appropriate section, pages, or lines containing the confidential information highlighted. **This information 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 has requested 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 audit requests be classified as confidential for the reasons set forth above.

Respectfully submitted,



R. Alexander Glenn
alex.glenn@pgnmail.com
John T. Burnett
john.burnett@pgnmail.com
Progress Energy Service Company, LLC
Post Office Box 14042
St. Petersburg, Florida 33733-4042
Telephone: 727-820-5184
Facsimile: 727-820-5249
Attorneys for
PROGRESS ENERGY FLORIDA, INC.

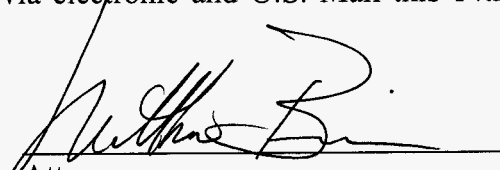
James Michael Walls
mwalls@carltonfields.com
Florida Bar No. 0706242
Dianne M. Triplett
dtripllett@carltonfields.com
Florida Bar No. 0872431
Matthew Bernier
mbernier@carltonfields.com
Florida Bar No. 0059886
Carlton Fields
4221 West Boy Scout Blvd.
P.O. Box 3239
Tampa, FL 33607
(813) 223-7000/(813) 229-4133 (fax)

Paul Lewis Jr.
Paul.lewisjr@pgnmail.com
Progress Energy Service Company, LLC
106 E. College Avenue, Suite 800
Tallahassee, FL 32301
(850) 222-8738/(850) 222-9768 (fax)

Richard Melson
rick@rmelsonlaw.com
Florida Bar No. 0201243
705 Piedmont Drive
Tallahassee, FL 32312
(850) 894-1351

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 14th day of May, 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

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

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
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

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

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.
Skokie Blvd., Suite 400
Northbrook, IL 60062
Phone: (847) 849-4291
Email: KSTorain@potashcorp.com

STATE OF FLORIDA

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KATRINA J. MCMURRIAN
NANCY ARGENZIANO
NATHAN A. SKOP



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ACKNOWLEDGEMENT

DATE: May 15, 2009

TO: James Walls, Progress Energy

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 response to staff's review, Audit Control No. 08-248-2, 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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PSC Website: <http://www.floridapsc.com>

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