

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

RECEIVED-FPSC
09 JUN -4 PM 2:00
COMMISSION
CLERK

IN RE:
PETITION FOR INCREASE IN RATES
BY PROGRESS ENERGY FLORIDA, INC.

Docket No. 090079-EI
Submitted for filing: June 4, 2009

**PROGRESS ENERGY FLORIDA'S FOURTH REQUEST FOR
CONFIDENTIAL CLASSIFICATION**

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 certain documents provided to Staff at its request, originally produced in response to OPC's Seventh Request for Production of Documents (Nos. 174-201), specifically the documents responsive to requests 189, 190 and 196. Portions of these documents contain confidential contractual data the disclosure of which could seriously impair the Company's competitive business interests and violate the contractual confidentiality agreement pertaining to such information, as well as additional confidential business information, the disclosure of which would harm PEF's competitive business interests. 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.

COM _____
ECR 1
GCL 1
OPC _____
RCP _____
SSC _____
SGA _____
ADM _____
CLK 1

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)

DOCUMENT NUMBER-DATE

05582 JUN-4 8

FPSC-COMMISSION CLERK

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 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.

Certain documents that Staff has requested, originally produced to OPC in response to requests 189 and 190, contain proprietary information obtained from a third party pursuant to a contractual confidentiality agreement, the disclosure of which would compromise the Company's competitive business interests. See Affidavit of David Sorrick at ¶3. Disclosure of this proprietary and confidential information could adversely affect the Company's ability to secure such goods and services at favorable terms in the future. Furthermore, disclosure of this information could affect the behavior of such third party vendors when offering prices and contractual terms for these goods and services, and possibly the Company's ultimate ability to obtain the necessary information. Finally, PEF is required to maintain this contractual information as confidential pursuant to the terms of the contracts with its third party vendors. See id. at ¶4; § 366.093(3)(d), Fla. Stat.

The document requested by Staff and originally produced to OPC in response to request number 196 contains competitive business information, the release of which to the general public would harm PEF's competitive business interests. See Affidavit of John B. Crisp at ¶ 3. More

specifically, the document at issue contains sensitive and confidential information such as design details and various cost estimates, the release of which could give PEF's competitors and those PEF wishes to contract with a competitive advantage in the market for the necessary goods and services. See id. 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 Sorrick at ¶ 5; Affidavit of Crisp at ¶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. See Affidavit of Sorrick at ¶ 5; Affidavit of Crisp 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:

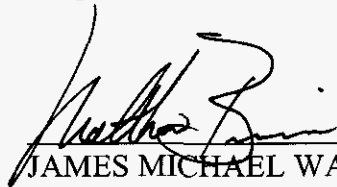
- (1) A separate, sealed envelope containing one copy of the confidential APPENDIX A to PEF's Request for Confidential Classification for which PEF intends to request confidential classification with the appropriate section, pages, or lines containing the confidential information highlighted. **This 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 above-referenced discovery responses 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
299 First Avenue North
P.O. Box 14042 (33733)
St. Petersburg, Florida 33701
(727) 820-5184
(727) 820-5249(fax)

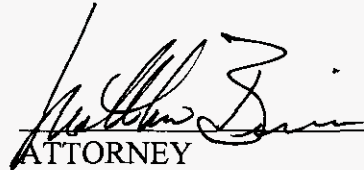
JAMES MICHAEL WALLS
mwalls@carltonfields.com
Florida Bar No. 0706242
DIANNE M. TRIPLETT
dtriplett@carltonfields.com
Florida Bar No. 0872431
MATTHEW BERNIER
mbernier@carltonfields.com
Florida Bar No. 0059886
Carlton Fields
4221 W. Boy Scout Boulevard
P.O. Box 3239
Tampa, Florida 33607-5736
(813) 223-7000 / (813) 229-4133 (fax)

PAUL LEWIS, JR.
Paul.lewisjr@pgnmail.com
Progress Energy Service Company, LLC
106 East College Avenue, Suite 800
Tallahassee, Florida 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 that a true and correct copy of the foregoing has been served via electronic and U.S. Mail to the following counsel of record as indicated below on this 4th day of June, 2009.



ATTORNEY

KATHERINE FLEMING
Staff Counsel
Florida Public Service Commission
2540 Shumard Oak Blvd
Tallahassee, FL 32399

J.R. KELLY/CHARLES REHWINKLE
Office of the Public Counsel
c/o The Florida Legislature
111 W. Madison Street – Room 812
Tallahassee, FL 32399-1400

BILL MCCOLLUM/CECILIA BRADLEY
Office of the Attorney General
The Capitol – PL01
Tallahassee, FL 32399-1050

VICKI G. KAUFMAN/JON C. MOYLE, JR.
Keefe Law Firm, The Perkins House
118 North Gadsden Street
Tallahassee, FL 32301

JAMES W. BREW/ALVIN TAYLOR
Brickfield Law Firm
1025 Thomas Jefferson Street, NW, 8th Fl
Washington, D.C. 20007

R. SCHEFFEL WRIGHT / JOHN T. LAVIA
Young Law Firm
225 South Adams Street, Ste. 200
Tallahassee, FL 32301

KAY DAVOODI
Director, Utility Rates and Studies Office
Naval Facilities Engineering Command
1322 Patterson Avenue SE
Washington Navy Yard, DC 20374-5065

AUDREY VAN DYKE
Litigation Headquarters
Naval Facilities Engineering Command
720 Kennon Street, S.E. Bldg 36, Room 136
Washington Navy Yard, DC 20374-5065

COMMISSIONERS:
MATTHEW M. CARTER II, CHAIRMAN
LISA POLAK EDGAR
KATRINA J. MCMURRIAN
NANCY ARGENZIANO
NATHAN A. SKOP

STATE OF FLORIDA



OFFICE OF COMMISSION CLERK
ANN COLE
COMMISSION CLERK
(850) 413-6770

Public Service Commission

ACKNOWLEDGEMENT

DATE: June 4, 2009

TO: Matthew R. Bernier, Esquire/Carlton Fields, P.A.

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 090079-EI [DN 05583-09] or, if filed in an undocketed matter, concerning certain documents provided to staff at it's request, originally produced in response to OPC's 7th request for PODs (Nos. 174-201), specifically No. 189, 190, and 196, 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.