

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 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.

The documents in question, as explained below and in the supporting affidavit of Thomas Sullivan, contain confidential competitive business information regarding the Company’s financial projections, planning, and strategies. Specifically, these documents include, *inter alia*, the Company’s monthly “Treasury Reports” (summary documents with high-level information including Financing plans, Debt-Forecasts, Cash-Flow updates, and Market Impact statements) covering both PEF and its parent, Progress Energy, Inc. (“PGN”), as well as credit metric summaries for PEF and PGN, meeting agendas and minutes for various committees (including, e.g., the Treasury, Risk and Transactions subcommittee and the Finance Committee), and

information regarding the Company's five-year revolving credit agreement. Disclosure of this information would harm the Company's competitive business interests by giving competitors and other third parties valuable insight in to the Company's plans, strategies and forecasts. See Affidavit of Sullivan, ¶4. This information could then be used to the advantage of third parties that either wish to contract with, or compete with, PEF. Additionally, the document concerning the RCA contains information that is subject to that agreement's contractual confidentiality agreement. See id. Accordingly, these documents should be accorded confidential treatment pursuant to section 366.093(3)(d) and (e), Florida Statutes.

PEF has kept confidential and has not publicly disclosed the confidential information and documents at issue here. See Affidavit of Sullivan, ¶5. Absent such measures, PEF would run the risk that sensitive business information regarding the CR3 EPU and LNP EPC would be made to available to the public and, as a result, other parties could change their position in future negotiations with PEF. Without PEF's measures to maintain the confidentiality of sensitive information described herein, the Company's efforts to obtain competitive contracts and to obtain competitively priced goods and services would be undermined. See 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. At no time since receiving the information in question has the Company publicly disclosed that information; the Company has treated and continues to treat the information at issue as confidential. See 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 a CD including the confidential documents as Attachment 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 Attachment B; and,

(3) A justification matrix supporting PEF's Request for Confidential Classification of the highlighted information contained in confidential Attachment A, as Attachment C.

WHEREFORE, PEF respectfully requests that the highlighted portions of the documents produced in response to Staff's Thirteenth Request for Production of Documents (Nos. 67-96), specifically request numbers 70, 71 and 90, be classified as confidential for the reasons set forth above.

Respectfully submitted,



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

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)

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 25th day of August, 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

STATE OF FLORIDA

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



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

Public Service Commission

ACKNOWLEDGEMENT

DATE: August 25, 2009

TO: James Michael Walls, Carlton Fields

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 090079 or, if filed in an undocketed matter, concerning documents produced in response to staff's 13th Request for PODs, Nos. 67-96, specifically, Nos. 70, 71, and 90, provided on CD, 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.

DOCUMENT NUMBER-DATE
08855 AUG 25 09
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CAPITAL CIRCLE OFFICE CENTER • 2540 SHUMARD OAK BOULEVARD • TALLAHASSEE, FL 32399-0850
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PSC Website: <http://www.floridapsc.com>

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