

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

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

Docket No. 090079-EI
Submitted for Filing August 31, 2009

COMMISSION
CLERK

**PROGRESS ENERGY FLORIDA'S NINTH REQUEST FOR
CONFIDENTIAL CLASSIFICATION REGARDING THE DOCUMENTS PRODUCED
IN RESPONSE TO STAFF'S FIFTEENTH REQUEST FOR PRODUCTION
OF DOCUMENTS (NOS. 98-99)**

Progress Energy Florida, Inc. ("PEF" or the "Company"), pursuant to Section 366.093, Florida Statutes, and Rule 25-22.006(3), Florida Administrative Code, requests confidential classification of the documents produced in response to the Florida Public Service Commission's Staff's ("Staff") Fifteenth Request for Production of Documents (Nos. 98-99). The information being provided in response to these requests contains confidential information relating to the Company's competitive interests, the release of which would harm the Company's competitive business interests. Furthermore, the information contained in these responses incorporates and includes information obtained from a third-party vendor pursuant to a confidentiality agreement, and therefore release of this information would violate that agreement. Additionally, the Company has produced similar information in response to a previous discovery request, and at all times has taken the appropriate steps to maintain its confidentiality. For these reasons, PEF requests that the Commission afford these documents confidential classification.

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With respect to the confidential information at issue, PEF filed its Fourth Notice of Intent to Request Confidential Classification on August 10th, 2009. Therefore, pursuant to Rule 25-22.006(3), Florida Administrative Code, this request is timely. PEF hereby submits the following in support of its confidentiality request:

15590356.1

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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 Peter Toomey, contain information that was received from third-party vendors, subject to confidentiality agreements. PEF’s disclosure of this information, in addition to placing the Company in breach of these agreements, would also impair the Company’s ability to contract for the use of similar information in the future. If vendors did not believe that PEF was able to protect their proprietary information, they would be less likely to contract with PEF for its use, or possibly would only enter into similar agreements at a premium price. This would have a detrimental impact on the Company, and ultimately its ratepayers. See Affidavit of Toomey, ¶4.

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 Toomey, ¶5. Absent such measures, PEF would run the risk that it would be unable to contract for the use of similar proprietary information in the future. 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,

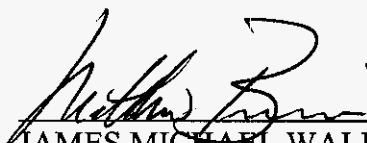
(3) A justification matrix supporting PEF's Request for Confidential Classification of the highlighted information contained in confidential Attachment A, as Attachment C.

WHEREFORE, PEF respectfully requests that the highlighted portions of the documents produced in response to Staff's Fifteenth Request for Production of Documents (Nos. 98-99), 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)

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)

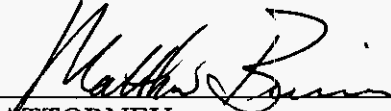


JAMES MICHAEL WALLS
mwalls@carltonfields.com
Florida Bar No. 0706242
DIANNE M. TRIPLETT
dtriplett@carltonfields.com
Florida Bar No. 0872431
MATTHEW BERNIER
mbernier@carltonfields.com
Florida Bar No. 0059886
Carlton Fields
4221 W. Boy Scout Boulevard
P.O. Box 3239
Tampa, Florida 33607-5736
(813) 223-7000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

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 31st 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

COMMISSIONERS:
MATTHEW M. CARTER II, CHAIRMAN
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NATHAN A. SKOP

STATE OF FLORIDA



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Public Service Commission

ACKNOWLEDGEMENT

DATE: August 31, 2009

TO: Matthew Bernier, James Michael Walls/Carlton Fields Law Firm

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 15th Request for PODs, Nos. 98-99, 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
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PSC Website: <http://www.floridapsc.com>

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