

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

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IN RE: NUCLEAR POWER PLANT COST
RECOVERY CLAUSE

Docket No. 09-09-EI
Submitted for Filing September 3, 2009

PROGRESS ENERGY FLORIDA'S TWENTIETH REQUEST FOR CONFIDENTIAL CLASSIFICATION REGARDING THE DOCUMENTS PRODUCED IN RESPONSE TO STAFF'S NINTH SET OF INTERROGATORIES (NOS. 66-76)

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") Ninth Set of Interrogatories (Nos. 66-76), specifically numbers 67-76 (the "Documents"). The Documents contain confidential competitive business information related to the Levy Nuclear Project ("LNP") the release of which would harm PEF's competitive business. PEF considers this information proprietary and confidential, does not share it with the public, and has at all times maintained its confidentiality. Therefore, PEF requests the Commission to classify these documents as confidential.

With respect to the confidential information contained in the Documents, PEF filed its Seventeenth Notice of Intent to Request Confidential Classification on August 19th, 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:

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

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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, as explained below and in the supporting affidavit of Garry Miller, contain confidential competitive business information regarding the LNP. The disclosure of this information would harm PEF’s competitive business interests by giving third-parties specific knowledge of the Company’s projections in a wide-range of areas concerning the LNP. As an example, these documents include information related to the projected LNP schedule shift, fuel cost estimates for the LNP, including estimates for those costs based on hypothetical mixes of joint-ownership percentages and different schedule-shift timelines. The release of this information would place PEF at a competitive disadvantage when negotiating contracts for the LNP. See Affidavit of Miller, ¶4. The Company takes all reasonable steps to maintain the confidentiality and proprietary nature of this information. Accordingly, these Documents should be afforded confidential treatment pursuant to section 366.093(3)(e), Florida Statutes.

PEF has kept confidential and has not publicly disclosed the confidential information and documents at issue here. See Affidavit of Miller, ¶5. Absent such measures, PEF would run the risk that sensitive business information regarding the LNP would be made to available to the public and, as a result, other parties could change their position in future negotiations with PEF, or otherwise alter their behavior in the market for necessary goods and services vital to the success of the project. 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. See id. 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 the Documents (on CD) at issue 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;**

(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 documents produced in response to the Florida Public Service Commission's Staff's ("Staff") Ninth Set of Interrogatories (Nos. 66-76), specifically numbers 67-76, be classified as confidential for the reasons set forth above.

Respectfully submitted,

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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 3rd day of September, 2009.


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Public Service Commission

ACKNOWLEDGEMENT

DATE: September 3, 2009

TO: Matthew Bernier, 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 0900⁰79 or, if filed in an undocketed matter, concerning documents produced in response to staff's 9th set of Interrogatories (Nos. 66-76) specifically, Nos. 67-76, 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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