

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

RECEIVED-FPSC  
09 SEP 21 PM 4:35  
COMMISSION  
CLERK

IN RE: NUCLEAR POWER PLANT COST  
RECOVERY CLAUSE

Docket No. 090009-EI  
Submitted for Filing: September 21, 2009

**PROGRESS ENERGY FLORIDA'S REVISED ELEVENTH REQUEST FOR  
CONFIDENTIAL CLASSIFICATION REGARDING THE REVIEW OF PROGRESS  
ENERGY FLORIDA'S PROJECT MANAGEMENT INTERNAL CONTROLS FOR  
NUCLEAR PLANT UPRATE AND CONSTRUCTION PROJECTS DRAFT REPORT**

Progress Energy Florida, Inc. ("PEF" or the "Company"), pursuant to Section 366.093, Florida Statutes, and Rule 25-22.006(3), Florida Administrative Code, revises its request for confidential classification of portions of the Commission's Auditor's Review of PEF's Project Management Internal Controls for Nuclear Plant Uprate and Construction Projects Draft Report, dated July, 2009 to include the final report dated July, 2009 and subsequently filed as Exhibit CC-1 to the Direct Testimony of William Coston and Geoff Cryan (PSC Document No. 07619-09). The information contained in this report contains proprietary and confidential business information which the Company does not disclose to the public, including contractual data, internal audit reports, and other confidential competitive business information, the disclosure of which would harm the Company's competitive business interests and in many cases would violate contractual confidentiality clauses.

In support of this Request, PEF states as follows:

**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

COM  
TOP 5  
CCL 1  
CPC  
COP  
LSC  
SGA  
ADM  
CLK 1

DOCUMENT NUMBER-DATE  
09762 SEP 21 09

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 report at issue, subsequently identified as Exhibit CC-1 to the Direct Testimony of William Coston and Geoff Cryan (PSC Document No. 07619-09) and, as explained below and in the supporting affidavits of Garry Miller ("Miller"), Gary Furman ("Furman"), Raymond Phillips ("Phillips"), and Jon Franke ("Franke") (PSC Document Nos. 07590-09 through 07593-09), contains confidential competitive business information, including contractual data, internal audit reports, and other confidential competitive business information, the disclosure of which would harm the Company's competitive business interests and in many cases would violate contractual confidentiality clauses. Specifically, this information includes information regarding the contractual agreements necessary for the success of the Levy Nuclear Project ("LNP") and the Crystal River Unit 3 Uprate Project ("CR3 Uprate"), the disclosure of which would be a violation of contractually agreed to confidentiality provisions. See Miller, ¶4; Furman, ¶4. Violating these agreements would necessarily harm the Company's competitive business interests. See Miller, ¶4; Furman, ¶4. As the report itself states, "A large volume of information

was collected and analyzed by staff”, including “contract request for proposals,” “contractor bids,” “bid evaluation analyses,” “contracts,” “project scope analysis studies by PEF and consultants,” and “internal audit reports.” The release of this information would adversely impact PEF’s competitive business interests if disclosed to the public. See Miller, ¶4; Furman, ¶4, Phillips, ¶3; Franke ¶4. If other parties were made aware of confidential contractual terms and arrangements that PEF has with other parties, including the pricing arrangements, they may offer PEF less competitive contractual terms in future contractual negotiations. See Miller, ¶ 4; Furman, ¶4; Franke, ¶4. Furthermore, the disclosure of these confidential contractual terms would be a violation of contractual confidentiality provisions entered by PEF and the other contractual parties. See Miller, ¶4; Furman, ¶4; Franke, ¶4. Additionally, this report contains information taken directly from the Company’s internal audit reports and controls, the disclosure of which would impair the Company’s ability to effectively audit and oversee its major projects, by eliminating the confidentiality required for complete cooperation with auditors. See Phillips, ¶4. This report also contains information relating to the planned outage of CR3, including the length and timing of the outage. This information, if released to the public would allow other market participants to alter their behavior resulting in increased costs to PEF during the period when PEF will be required to purchase power. See Franke, ¶4. Accordingly, this information should be afforded confidential treatment pursuant to section 366.093(3)(d), Florida Statutes.

PEF has kept confidential and has not publicly disclosed the confidential information at issue here. See Miller, ¶5; Furman, ¶5; Phillips, ¶5; Franke, ¶5. 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. See Miller, ¶4; Furman, ¶4; Franke, ¶4. Without PEF's measures to maintain the confidentiality of this sensitive information, the Company's efforts to obtain competitive contracts and to obtain competitively priced goods and services would be undermined. See Miller, ¶5; Furman, ¶5; Phillips, ¶5; Franke, ¶5.

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 Miller, ¶5; Furman, ¶5; Phillips, ¶5; Franke, ¶5. 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 Miller, ¶5; Furman, ¶5; Phillips, ¶5; Franke, ¶5.

#### 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 of the confidential Attachment A to PEF's Revised 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 Revised Request for Confidential Classification of the highlighted information contained in confidential Attachment A, as Attachment C.

WHEREFORE, PEF respectfully requests that the redacted portions of the Commission's Auditor's Review of PEF's Project Management Internal Controls for Nuclear Plant Uprate and Construction Projects Draft Report and Commission's Auditor's Review of PEF's Project Management Internal Controls for Nuclear Plant Uprate and Construction Projects Report, both dated July, 2009, be classified as confidential for the reasons set forth above.

Respectfully submitted,

R. ALEXANDER GLENN  
General Counsel  
JOHN BURNETT  
Associate General Counsel  
PROGRESS ENERGY SERVICE  
COMPANY, LLC  
Post Office Box 14042  
St. Petersburg, FL 33733-4042  
Telephone: (727) 820-5587  
Facsimile: (727) 820-5519

  
\_\_\_\_\_  
JAMES MICHAEL WALLS  
Florida Bar No. 0706242  
DIANNE M. TRIPLETT  
Florida Bar No. 0872431  
MATTHEW R. BERNIER  
Florida Bar No. 0059886  
CARLTON FIELDS, P.A.  
Post Office Box 3239  
Tampa, FL 33601-3239  
Telephone: (813) 223-7000  
Facsimile: (813) 229-4133

**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 21<sup>st</sup> day of September, 2009.

  
ATTORNEY

MR. PAUL LEWIS, JR.  
Progress Energy Florida, Inc.  
106 East College Avenue, Ste. 800  
Tallahassee, FL 32301-7740  
(850) 222-8738 / FAX: (850) 222-9768  
Email: [paul.lewisjr@pgnmail.com](mailto:paul.lewisjr@pgnmail.com)

JOHN W. MCWHIRTER  
McWhirter Law Firm  
400 North Tampa Street, Ste. 2450  
Tampa, FL 33602  
(813) 224-0866 / FAX: (813) 221-1854  
Email: [jmcwhirter@mac-law.com](mailto:jmcwhirter@mac-law.com)

CHARLES REHWINKEL  
Associate Counsel  
Office of Public Counsel  
c/o The Florida Legislature  
111 West Madison Street, Room 812  
Tallahassee, FL 32399-1400  
(850) 488-9330  
Email: [rehwinkel.charles@leg.state.fl.us](mailto:rehwinkel.charles@leg.state.fl.us)

BRYAN S. ANDERSON  
JESSICA CANO  
Florida Power & Light  
700 Universe Boulevard  
Juno Beach, FL 33408-0420  
(561) 691-7101 / FAX: (561) 691-7135  
Email: [bryan.anderson@fpl.com](mailto:bryan.anderson@fpl.com)  
[Jessica.cano@fpl.com](mailto:Jessica.cano@fpl.com)

KEINO YOUNG  
LISA BENNETT  
JENNIFER BRUBAKER  
ANNA WILLIAMS  
Florida Public Service Commission  
2540 Shumard Oak Blvd  
Tallahassee 32399  
(850) 413-6218 / FAX: (850) 413-6184  
Email: [kyoung@psc.state.fl.us](mailto:kyoung@psc.state.fl.us)  
[lbennett@psc.state.fl.us](mailto:lbennett@psc.state.fl.us)  
[Jbrubake@psc.state.fl.us](mailto:Jbrubake@psc.state.fl.us)  
[awilliams@psc.state.fl.us](mailto:awilliams@psc.state.fl.us)

JAMES W. BREW  
F. ALVIN TAYLOR  
Brickfield Burchette Ritts & Stone, PC  
1025 Thomas Jefferson St NW  
8th FL West Tower  
Washington, DC 20007-5201  
(202) 342-0800 / FAX: (202) 342-0807  
Email: [jbrew@bbrslaw.com](mailto:jbrew@bbrslaw.com)  
[ataylor@bbrslaw.com](mailto:ataylor@bbrslaw.com)

VICKI GORDON KAUFMAN  
JON C. MOYLE, JR.  
118 North Gadsden Street  
Tallahassee, FL 32301  
(850) 681-3828 / FAX: (850) 681-8788  
Email: [vkaufman@kagmlaw.com](mailto:vkaufman@kagmlaw.com)  
[jmoyle@kagmlaw.com](mailto:jmoyle@kagmlaw.com)

E. LEON JACOBS, JR.  
Southern Alliance for Clean Energy, Inc.  
c/o Williams Law Firm  
1720 S. Gadsden Street MS 14, Ste. 20  
Tallahassee, FL 32301  
(850) 222-1246 / FAX: (850) 599-9079  
Email: [Ljacobs50@comcast.net](mailto:Ljacobs50@comcast.net)

HONORABLE CHARLES S. DEAN  
Senate Majority Whip  
411 Tomkins Street  
Inverness, FL 34450  
Phone: (352) 860-5175

RANDY B. MILLER  
White Springs Agricultural Chemicals, Inc.  
P.O. Box 300  
White Springs, FL 32096  
Email: [RMiller@pcsphosphate.com](mailto:RMiller@pcsphosphate.com)

HONORABLE MIKE FASANO  
8217 Massachusetts Avenue  
New Port Richey, FL 34653  
(727) 485-5885 / FAX: (727) 841-4453

CAPTAIN SHAYLA L. MCNEILL  
AFLOA/JACL-ULT  
AFCESA  
139 Barnes Drive, Suite 1  
Tyndall Air Force Base, FL 32403  
(850) 283-6663 / FAX: (850) 283-6219  
Email: [shayla.mcneill@tyndall.af.mil](mailto:shayla.mcneill@tyndall.af.mil)

GARY A. DAVIS  
JAMES S. WHITLOCK  
Gary A. Davis & Associates  
P.O. Box 649  
Hot Springs, NC 28743  
(828) 622-0044  
Email: [gadavis@enviroattorney.com](mailto:gadavis@enviroattorney.com)  
[jswhitlock@enviroattorney.com](mailto:jswhitlock@enviroattorney.com)

EDGAR M. ROACH, JR.  
McGuire Woods  
2600 Two Hanover Square  
P.O. Box 27507 (27611)  
Raleigh, NC 27601

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: September 22, 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 090009 or, if filed in an undocketed matter, concerning portions of Commission's Auditor's Review of PEF's Project Management Internal Controls for Nuclear Plant Uprate and Construction Projects Draft Report dated 7/09, to include final report dated 7/9, and subsequently filed as Exhibit CC-1 to direct testimony of William Coston and Geoff Cryan (DN 07619-09), 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.**

CAPITAL CIRCLE OFFICE CENTER • 2540 SHUMARD OAK BOULEVARD • TALLAHASSEE, FL 32399-0850  
An Affirmative Action/Equal Opportunity Employer

PSC Website: <http://www.floridapsc.com>

Internet E-mail: [contact@psc.state.fl.us](mailto:contact@psc.state.fl.us)

DOCUMENT NUMBER - 090009  
09763 SEP 21 2009  
FPSC-COMMISSION CLERK