

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

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

Docket No. 09000001-PEI Submitted for Filing March 8, 2010

RECEIVED-FPSC 10 MAR -8 PM 4:28 COMMISSION CLERK

PROGRESS ENERGY FLORIDA'S AMENDED FIFTEENTH REQUEST FOR CONFIDENTIAL CLASSIFICATION

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 a document admitted into evidence during the hearing in this docket as Exhibit Number 265, the "2009 Electric Utility Residential Customer Satisfactory Study" (hereinafter "the Study") performed for PEF by J.D. Powers and Associates. The Study contains confidential proprietary information relating to the Company's competitive business interests, the release of which would harm the Company's competitive business interests, as well as violate the contractual confidentiality clause pursuant to which it was obtained. For these reasons, PEF requests that the Commission afford the Study confidential classification.

With respect to the confidential information at issue, PEF filed its Ninth Notice of Intent to Request Confidential Classification on September 22nd, 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

- COM
APA
ECR 5
GCL 1
RAD
SSC
ADM
OPC
CLK 1

DOCUMENT NUMBER-DATE

01592 MAR -8 e

FPSC-COMMISSION

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. Also, “Internal auditing controls and reports of internal auditors” are likewise treated as proprietary confidential business information. § 366.093(3)(b), 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 Study, as explained below and in the supporting affidavit of Willete Morman, includes confidential information regarding the Company’s competitive business interests, including customer service surveys, and the results thereof. Disclosure of this information would impair PEF’s competitive business interests by providing third parties with sensitive information which was obtained by PEF pursuant to a contractual confidentiality provision. PEF treats this information as confidential and proprietary in nature, and takes steps to insure that it is not publicly disclosed. By disclosing this information, PEF would be in breach of the confidentiality agreement and would no longer be able to contract for such information as the providers of similar studies would question PEF’s ability to keep the information confidential. See Affidavit,

¶¶4-5. Accordingly, these documents should be accorded confidential treatment pursuant to section 366.093(3)(e), Florida Statutes.

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. at ¶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:

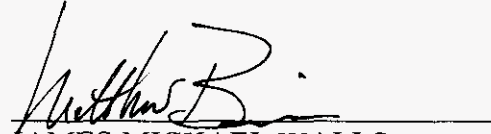
(1) A separate, sealed envelope containing a CD including the confidential document for which PEF has requested confidential classification with the appropriate section, pages, or lines containing the confidential information highlighted as Attachment A to PEF's Request for Confidential Classification. **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 Exhibit Number 265, the "2009 Electric Utility Residential Customer Satisfactory Study" performed for PEF by J.D. Powers and Associates, be classified as confidential for the reasons set forth above.

Respectfully submitted,



JAMES MICHAEL WALLS
mwalls@carltonfields.com
Florida Bar No. 0706242
BLAISE N. HUHTA
bhuhta@carltonfields.com
Florida Bar No. 027942
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)

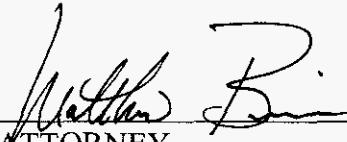
R. ALEXANDER GLENN
alex.glenn@pgnmail.com
JOHN T. BURNETT
john.burnett@pgnmail.com
DIANNE M. TRIPLETT
dianne.triplett@pgnmail.com
Progress Energy Service Company, LLC
299 First Avenue North
P.O. Box 14042 (33733)
St. Petersburg, Florida 33701
(727) 820-5184 / (727) 820-5249(fax)

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)

RICHARD MELSON
rick@rmelsonlaw.com
Florida Bar No. 0201243
705 Piedmont Drive
Tallahassee, Florida 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 8th day of March, 2010.



ATTORNEY

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

J.R. KELLY/CHARLES REHWINKEL
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

STEPHANIE ALEXANDER
Tripp Scott, P.A.
200 West College Avenue, Suite 216
Tallahassee, Florida 32301

COMMISSIONERS:
NANCY ARGENZIANO, CHAIRMAN
LISA POLAK EDGAR
NATHAN A. SKOP
DAVID E. KLEMENT
BEN A. "STEVE" STEVENS III

STATE OF FLORIDA



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

Public Service Commission

ACKNOWLEDGEMENT

DATE: March 9, 2010

TO: Matthew Bernier, 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 Exhibit No. 265 admitted into evidence during hearing, 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 Kim Peña, Records Management Assistant, at (850) 413-6393.

DOCUMENT NUMBER - DA
01593 MAR -8
FPSC - COMMISSION CLERK

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