

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

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In re: Nuclear Power Plant Cost
Recovery Clause

Docket No. 100009-EI
Submitted for Filing: May 17, 2010

**PROGRESS ENERGY FLORIDA'S REQUEST FOR CONFIDENTIAL
CLASSIFICATION REGARDING AUDIT CONTROL NO. 10-006-2-1
DATA REQUESTS AND WORKPAPERS**

Progress Energy Florida, Inc. ("PEF" or the "Company"), pursuant to Sections 366.093, Florida Statutes, and Rule 25-22.006(3), Florida Administrative Code, requests confidential classification of portions of the documents and information provided to Florida Public Service Commission Staff's ("Staff") auditors in response to Staff's review, *Audit Control No. 10-006-2-1*. These documents contain confidential contractual information, the disclosure of which would impair PEF's competitive business interests and violate PEF's confidentiality agreements with third parties. The unredacted documents are being filed under seal with the Commission on a confidential basis to keep the competitive business information in those documents confidential.

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 _____ that is (i) intended to be and is treated as private confidential information by the Company, (ii)
APA 5+SCDs
ECR _____ because disclosure of the information would cause harm, (iii) either to the Company's customers
GCL 1+CD
RAD _____ or the Company's business operation, and (iv) the information has not been voluntarily disclosed
SSC _____ to the public. § 366.093(3), Fla. Stat. Specifically, "information concerning bids or other
ADM _____
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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.

Portions of the aforementioned documents and data requests should be afforded confidential classification for the reasons set forth in the Affidavit of Cynthia Lee filed in support of PEF’s Request for Confidential Classification, and for the following reasons. Specifically, portions of these responses contain confidential contractual data, including pricing agreements, payment information and other confidential contractual terms, the release of which would impair PEF’s competitive business interests, and would further be a violation of contractual confidentiality agreements. See Affidavit of Cynthia Lee at ¶ 4.

The audit responses contain work authorization contractual amendments and other contractual data that are subject to confidentiality agreements between PEF and the other contracting parties. PEF negotiates each of its contracts to obtain the most competitive terms available to benefit PEF and its customers. In order to successfully obtain such contracts, however, PEF must be able to assure the other parties to the contracts that the sensitive business information contained therein, such as quantity and pricing terms, will remain confidential. PEF has kept confidential and has not publicly disclosed the proprietary contract terms and provisions at issue here. 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. Without PEF's measures to maintain the confidentiality of sensitive terms in these contracts, the Company's efforts to obtain competitive contracts would be undermined. In addition, by the terms of these contracts, all parties, including PEF, have agreed to protect the proprietary and confidential information, defined to include pricing arrangements, from public disclosure. 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 only those persons who need the information to assist the Company. See Affidavit of Cynthia Lee at ¶ 5. At no time since receiving the information in question has the Company publicly disclosed that information. Id. The Company has treated and continues to treat the information at issue as confidential. 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 one copy of the confidential Appendix 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 Appendix B; and,

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

WHEREFORE, PEF respectfully requests that the redacted portions of its responses to Staff's audit requests 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 17th day of May, 2010.



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State of Florida



Public Service Commission

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-M-E-M-O-R-A-N-D-U-M-

DATE: May 17, 2010
TO: James Michael Walls, P.O. Box 3239 Tampa FL 33601
FROM: Diamond M. Williams, Office of Commission Clerk
RE: Acknowledgement of Confidential Filing in Docket Number 100009-EI

This will acknowledge receipt of a CONFIDENTIAL DOCUMENT filed in the above-referenced docket.

Document Number 04148-10 has been assigned to this filing, which 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.