

In re: Nuclear Power Plant Cost Recovery Clause

Docket No. 100009-EI Submitted for Filing: June 14, 2010

COMMISSION CLERK

PROGRESS ENERGY FLORIDA'S EIGHTH REQUEST FOR CONFIDENTIAL CLASSIFICATION REGARDING DOCUMENTS PRODUCED IN RESPONSE TO OPC'S THIRD REQUEST FOR PRODUCTION OF DOCUMENTS (NOS. 54-73) AND THE RESPONSES TO OPC'S THIRD SET OF INTERROGATORIES (NOS. 34-63)

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 produced in response to the Office of Public Counsel's ("OPC") Third Request for Production of Documents (Nos. 54-73), specifically numbers 54, 56, 57, 58, 60, 61, 62, 63, 64 and 73, and portions of the responses to OPC's Third Set of Interrogatories to Progress Energy Florida (Nos. 34-63), specifically numbers 51, 53, 54, 61 and 62. These documents and responses contain confidential contractual information, the disclosure of which would impair PEF's competitive business interests, as well as other information the disclosure of which would harm the Company's competitive business interests. These documents and responses meet the definition of proprietary confidential business information per section 366.093(3), Florida Statutes. The unredacted documents and responses are being filed under seal with the Commission on a confidential basis to keep the competitive

COM business information in those documents and responses confidential.

APA 1+1 CDs

ECR 4+4 CDs

GCL 1+1 CD

RAD 1+1 CD

SSC

ADM Commission which are shown and found by the Commission to be proprietary confidential

OPC

CLK business information shall be kept confidential and shall be exempt from [the Public Records

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BASIS FOR CONFIDENTIAL CLASSIFICATION

Section 366.093(1), Florida Statutes, provides that "any records received by the

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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 customers 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.

Portions of the aforementioned documents and responses (collectively the “responsive information”) should be afforded confidential classification for the reasons set forth in the Affidavits of Sue Hardison and Jon Franke, filed in support of PEF’s Eighth Request for Confidential Classification, and for the following reasons.

The responsive information contains sensitive information concerning the CR3 Uprate Project (“CR3 EPU”), including risk assessments, internal EPU procedures, and information concerning the License Amendment Request (“LAR”). PEF considers this information to confidential and proprietary and continues to take steps to protect against its public disclosure, including limiting the personnel who have access to this information. Affidavit of Franke, ¶¶ 4-5. Public release of this information would provide PEF’s competitors, and those parties it hopes to contract with in the future, valuable insight into the Company’s analysis of risk and overall strategy for the EPU. This would put the Company at a competitive disadvantage when

competing, or attempting to contract, with these other parties. Id. at ¶ 4. Accordingly, this information should be afforded confidential treatment by the Commission. See § 366.093(3)(e), Fla. Stat.

Also included in the responsive information is sensitive and confidential information related to the Levy Nuclear Project (“LNP”). These documents include the latest Integrated Project Plan, contractual work orders, and presentations and handouts made to Senior Management. Public release of this information would provide PEF’s competitors, and those parties it hopes to contract with in the future, valuable insight into the Company’s analysis of risk and overall strategy for the LNP. This would put the Company at a competitive disadvantage when competing, or attempting to contract, with these other parties. Affidavit of Hardison, ¶¶ 4-5. Also included in the responsive information is information related to the EPC contract; this information is confidential and proprietary and subject to a contractual confidentiality provision. Id. at ¶¶ 4, 6. 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 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. Id. at ¶¶ 5-6.

Finally, the responsive information includes documents reviewed by PEF's third party consultant, many of which have been produced previously and subject to requests for confidentiality. At all times PEF has taken the necessary steps to ensure the continued confidentiality of this information. Id. at ¶ 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 only those persons who need the information to assist the Company. See Affidavit of Hardison, ¶ 7, Affidavit of Franke, ¶ 5. At no time since receiving the information in question has the Company publicly disclosed that information. See Affidavit of Hardison, ¶ 7, Affidavit of Franke, ¶ 5. The Company has treated and continues to treat the information at issue as confidential. See Affidavit of Hardison, ¶ 7, Affidavit of 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 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 portions of the documents produced in response to OPC's Third Request for Production of Documents (Nos. 54-73), specifically numbers 54, 56, 57, 58, 60, 61, 62, 63, 64 and 73, and portions of the responses to OPC's Third Set of Interrogatories to Progress Energy Florida (Nos. 34-63), specifically numbers 51, 53, 54, 61 and 62, be granted confidential classification and treated accordingly.

Respectfully submitted,



R. Alexander Glenn
General Counsel
John Burnett
Associate General Counsel
Dianne M. Triplett
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
Blaise N. Huhta
Florida Bar No. 0027942
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 14th day of June, 2010.



Attorney

Anna Williams
Lisa Bennett
Keino Young
Staff Attorney
Florida Public Service Commission
2540 Shumard Oak Blvd
Tallahassee 32399
Phone: (850) 413-6218
Facsimile: (850) 413-6184
Email: anwillia@psc.state.fl.us
lbennett@psc.state.fl.us
kyoung@psc.state.fl.us

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

Vicki G. Kaufman
Jon C. Moyle, Jr.
Keefe Law Firm
118 North Gadsden Street
Tallahassee, FL 32301
Phone: (850) 681-3828
Fax: (850) 681-8788
Email: vkaufman@kagmlaw.com
jmoyle@kagmlaw.com

Bryan S. Anderson
Jessica Cano
Florida Power & Light
700 Universe Boulevard
Juno Beach, FL 33408-0420
Phone: (561) 691-7101
Facsimile: (561) 691-7135
Email: bryan.anderson@fpl.com
Jessica.cano@fpl.com

John W. McWhirter
McWhirter Law Firm
400 North Tampa Street, Ste. 2450
Tampa, FL 33602
Phone: (813) 224-0866
Facsimile: (813) 221-1854
Email: jmcwhirter@mac-law.com

James W. Brew
Brickfield Burchette Ritts & Stone, PC
1025 Thomas Jefferson St NW
8th FL West Tower
Washington, DC 20007-5201
Phone: (202) 342-0800
Fax: (202) 342-0807
Email: jbrew@bbrslaw.com

Mr. Paul Lewis, Jr.
Progress Energy Florida, Inc.
106 East College Avenue, Ste. 800
Tallahassee, FL 32301-7740
Phone: (850) 222-8738
Facsimile: (850) 222-9768
Email: paul.lewisjr@pgnmail.com

Captain Shayla L. McNeill
Air Force Legal Operations Agency (AFLOA)
Utility Litigation Field Support Center (ULFSC)
139 Barnes Drive, Ste. 1
Tyndall AFB, FL 32403-5319
Phone: (850) 283-6663
Facsimile: (850) 283-6219
Email: shayla.mcneill@tyndall.af.mil

Randy B. Miller
White Springs Agricultural Chemicals, Inc.
PO Box 300
White Springs, FL 32096
Email: RMiller@pscphosphate.com

Gary A. Davis
James S. Whitlock
Gary A. Davis & Associates
P.O. Box 649
Hot Springs, NC 28743
Phone: (828) 622-0044
Email: gsdavis@enviroattorney.com
jwhitlock@enviroattorney.com

State of Florida



Public Service Commission

CAPITAL CIRCLE OFFICE CENTER • 2540 SHUMARD OAK BOULEVARD
TALLAHASSEE, FLORIDA 32399-0850

James Michael Walls
Carlton Fields PA
P.O. Box 3239
Tampa FL 33601

Re: Acknowledgement of Confidential Filing in Docket No. 100009-EI

This will acknowledge receipt by the Florida Public Service Commission, Office of Commission Clerk, of a CONFIDENTIAL DOCUMENT filed on June 14, 2010, in the above-referenced docket.

Document Number 04926-10 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.