

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: June 23, 2010

COMMISSION CLERK

PROGRESS ENERGY FLORIDA'S ELEVENTH REQUEST FOR CONFIDENTIAL CLASSIFICATION REGARDING PEF'S SECOND SUPPLEMENTAL RESPONSE TO OPC'S THIRD REQUEST FOR PRODUCTION OF DOCUMENTS (NOS. 54-73)

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 number 54. The document provided in response to this request contains confidential contractual information, the disclosure of which would impair PEF's competitive business interests. The document at issue meets the definition of proprietary confidential business information per section 366.093(3), Florida Statutes. The unredacted document is being filed under seal with the Commission on a confidential basis to keep the competitive business information 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 —
(ECR) S because disclosure of the information would cause harm, (iii) either to the Company's customers
GCL 1
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 —
OPC —
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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.

The aforementioned document should be afforded confidential classification for the reasons set forth in the Affidavit of Jon Franke, filed in support of PEF’s Eleventh Request for Confidential Classification, and for the following reasons.

The document at issue contains sensitive and confidential information related to the CR3 Uprate Project (“EPU”). More specifically, this document is the EPU Integrated Project Plan (“IPP”). This document contains the Company’s plans, strategies, analyses of risks and cost estimates for the remainder of the EPU. Affidavit of Franke, ¶ 4. As such, the Company considers this information highly confidential. Public disclosure of this information would give the Company’s competitors invaluable insight into PEF’s strategies and internal risk assessments, and therefore provide them an unfair competitive advantage. Id. This would put the Company at a competitive disadvantage when competing, or attempting to contract, with these other parties. Id. This document meets the definition of confidential proprietary business information pursuant to section 366.093(3)(e), Florida Statutes.

PEF has kept confidential and has not publicly disclosed the proprietary contract terms and provisions at issue here. 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 id.

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 portions of PEF's Second Supplemental response to OPC's Third Request for Production of Documents (Nos. 54-73), specifically number 54, be granted confidential classification and treated accordingly.

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 23<sup>rd</sup> day of June, 2010.

  
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**PROGRESS ENERGY FLORIDA**  
**In re: Nuclear Cost Recovery Clause**  
**Docket 100009-EI**  
**Eleventh Request for Confidential Classification**

Exhibit B

**BATES NOS.**  
**10NC-OPCPOD3-54-000001**  
**through**  
**10NC-OPCPOD3-54-000030**

**ARE REDACTED IN THEIR ENTIRETY**

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PROGRESS ENERGY FLORIDA  
 In re: Nuclear Cost Recovery Clause  
 Docket 100009-EI  
 Eleventh Request for Confidential Classification  
 Confidentiality Justification Matrix

ATTACHMENT C

DOCUMENT	PAGE/LINE/COLUMN	JUSTIFICATION
PEF Response to Citizen's Third Request for Production No. 54, Bates No. 10NC- OPCPOD4-54-000001 - 000030	The document in its entirety	<p>             §366.093(3)(e), Fla. Stat.              The document in question              contains confidential              information relating to              competitive business interests,              the disclosure of which would              impair the competitive              business of the provider/owner              of the information.           </p> <p>             §366.093(3)(d), Fla. Stat.              The document in question              contains confidential              contractual information, the              disclosure of which would              impair PEF's efforts to              contract for goods or services              on favorable terms.           </p>

State of Florida



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**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 23, 2010, in the above-referenced docket.

Document Number 05205-10 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.