

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

10 JUN 23 PM 2:03

In re: Nuclear Power Plant Cost
Recovery Clause

Docket No. 100009-EI COMMISSION
Submitted for Filing: June 23, 2006 CLERK

PROGRESS ENERGY FLORIDA'S TENTH REQUEST FOR CONFIDENTIAL CLASSIFICATION REGARDING PEF'S RESPONSES TO OPC'S FOURTH REQUEST FOR PRODUCTION OF DOCUMENTS (NOS. 74-79) AND FOURTH SET OF INTERROGATORIES (NOS. 64-89)

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") Fourth Request for Production of Documents (Nos. 74-79), specifically numbers 76, 78, and 79 and portions of the responses to OPC's Fourth Set of Interrogatories (Nos. 64-89), specifically numbers 70 and 71. These documents and responses contain confidential contractual information, internal audit information, and other financial information the disclosure of which would impair PEF'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 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

COM _____ Section 366.093(1), Florida Statutes, provides that "any records received by the
APA _____
ECR 5 Commission which are shown and found by the Commission to be proprietary confidential
GCL 1
RAD _____ business information shall be kept confidential and shall be exempt from [the Public Records
SSC _____ Act]." § 366.093(1), Fla. Stat. Proprietary confidential business information means information
ADM _____
OPC _____
CLK 1

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 should be afforded confidential classification for the reasons set forth in the Affidavits of Will Garrett and Jon Franke, filed in support of PEF's Tenth Request for Confidential Classification, and for the following reasons.

The documents and interrogatory responses at issue contain sensitive and confidential information related to the Levy Nuclear Project ("LNP"). Specifically, portions of the responses contain details regarding PEF's budgeted and estimated costs for the LNP, costs which are driven by confidential contracts with various vendors. Affidavit of Garrett, ¶¶ 4, 6. Public disclosure of this information would give the Company's competitors invaluable insight into PEF's strategies, and therefore provide them an unfair competitive advantage. Id. at ¶ 5. This would put the Company at a competitive disadvantage when competing, or attempting to contract, with these other parties. Id.

Additionally, PEF's responses include information relating to the Company's internal audit procedures and reports. The public disclosure of this information would undermine the

Company's ability to effectively perform such internal audits by reducing the willingness of its employees to be open and candid with the auditors. Affidavit of Franke, ¶ 4. Furthermore, this information meets the definition of proprietary confidential business information pursuant to section 366.093(3)(b), Florida Statutes. Finally, PEF's responses include confidential cost information related to the CR3 Uprate Project, the disclosure of which would harm the Company's competitive business interests. See Affidavit of Franke, ¶ 4.

PEF has kept confidential and has not publicly disclosed the proprietary numbers, contract terms and information 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. See Affidavit of Garrett, ¶¶ 4-6.

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 ¶ 7; Affidavit of Garrett, ¶ 5; Affidavit of Franke, ¶ 5. At no time since receiving the information in question has the Company publicly disclosed that information. See Affidavit of Garrett, ¶ 7; Affidavit of Franke, ¶ 5. The Company has treated and continues to treat the information at issue as confidential. See Affidavit of Garrett, ¶ 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;**

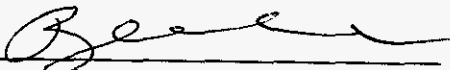
(2) Two copies of the documents with the information for which PEF has requested confidential classification redacted by section, page or lines, where appropriate, as Appendix B; and,

(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 the Office of Public Counsel's ("OPC") Fourth Request for Production of Documents (Nos. 74-79), specifically numbers 76, 78 and 79 and portions of the responses to OPC's Fourth Set of Interrogatories (Nos. 64-89), specifically numbers 70 and 71 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 23rd 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: jmewhirter@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

PROGRESS ENERGY FLORIDA
In re: Nuclear Cost Recovery Clause
Docket 100009-EI

Exhibit B

BATES NOS.
10NC-OPCROG 4-67-000001
through
10NC-OPCROG4-67-000002

ARE REDACTED IN THEIR ENTIRETY

PROGRESS ENERGY FLORIDA
In re: Nuclear Cost Recovery Clause
Docket 100009-EI

Exhibit B

BATES NOS.
10NC-OPCPOD4-76-000002
IS REDACTED IN ITS ENTIRETY

**PROGRESS ENERGY FLORIDA
In re: Nuclear Cost Recovery Clause
Docket 100009-EI**

Exhibit B

**BATES NOS.
10NC-OPCPOD4-78-000001
through
10NC-OPCPOD4-78-000076**

ARE REDACTED IN THEIR ENTIRETY

PROGRESS ENERGY FLORIDA
In re: Nuclear Cost Recovery Clause
Docket 100009-EI

Exhibit B

BATES NOS.
10NC-OPCPOD4-79-000001
through
10NC-OPCPOD4-79-000003

ARE REDACTED IN THEIR ENTIRETY

PROGRESS ENERGY FLORIDA
In re: Nuclear Cost Recovery Clause
Docket 100009-EI

Exhibit B

BATES NOS.
10NC-OPCROG 4-67-000001
through
10NC-OPCROG4-67-000002

ARE REDACTED IN THEIR ENTIRETY

PROGRESS ENERGY FLORIDA
In re: Nuclear Cost Recovery Clause
Docket 10009-EI

Exhibit B

BATES NOS.
10NC-OPCPOD4-76-000002

IS REDACTED IN ITS ENTIRETY

PROGRESS ENERGY FLORIDA
In re: Nuclear Cost Recovery Clause
Docket 100009-EI

Exhibit B

BATES NOS.
10NC-OPCPOD4-78-000001
through
10NC-OPCPOD4-78-000076

ARE REDACTED IN THEIR ENTIRETY

PROGRESS ENERGY FLORIDA
In re: Nuclear Cost Recovery Clause
Docket 10009-EI

Exhibit B

BATES NOS.
10NC-OPCPOD4-79-000001
through
10NC-OPCPOD4-79-000003

ARE REDACTED IN THEIR ENTIRETY

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

ATTACHMENT C

DOCUMENT	PAGE/LINE/COLUMN	JUSTIFICATION
PEF Response to Citizen's Fourth Set of Interrogatories No. 67, Bates No. 10NC-OPCROG4-67-000001 - 000002	The document in its entirety	§366.093(3)(e), Fla. Stat. The document portions in question contain confidential information relating to competitive business interests, the disclosure of which would impair the competitive business of the provider/owner of the information.
PEF Response to Citizen's Fourth Interrogatories, No. 70	Response, 3 rd line, eleventh word, 8 th line, eighth and last word, 10 th line, ninth word	§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. §366.093(3)(e), Fla. Stat. The document portions in question contain confidential information relating to competitive business interests, the disclosure of which would impair the competitive business of the provider/owner of the information.
PEF Response to Citizen's Fourth Interrogatories, No. 71	Response, 1 st paragraph, 2 nd line, fifth word, 3 rd line, fourth and seventh word; 2 nd paragraph, last four words; Table, all information shown in column CWIP	§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. §366.093(3)(e), Fla. Stat. The document portions in

		question contain confidential information relating to competitive business interests, the disclosure of which would impair the competitive business of the provider/owner of the information.
PEF Response to Citizen's Fourth Request for Production No. 76, Bates No. 10NC-OPCPOD4-76-000002	All information on page	§366.093(3)(e), Fla. Stat. The document portions in question contain confidential information relating to competitive business interests, the disclosure of which would impair the competitive business of the provider/owner of the information.
PEF Response to Citizen's Fourth Request for Production No. 76, Bates No. 10NC-OPCPOD4-78-000001 - 000076	The document in its entirety	§366.093(3)(e), Fla. Stat. The document portions in question contain confidential information relating to competitive business interests, the disclosure of which would impair the competitive business of the provider/owner of the information.
PEF Response to Citizen's Fourth Request for Production No. 76, Bates No. 10NC-OPCPOD4-79-000001 - 000003	The document in its entirety	§366.093(3)(e), Fla. Stat. The document portions in question contain confidential information relating to competitive business interests, the disclosure of which would impair the competitive business of the provider/owner of the information.

State of Florida



Public Service Commission

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

James Michael Walls
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 23, 2010, in the above-referenced docket.

Document Number 05207-10 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.