

In re: Nuclear Power Plant Cost  
Recovery Clause

Docket No. 100009-EI  
Submitted for Filing: June 23, 2010

COMMISSION  
CLERK

**PROGRESS ENERGY FLORIDA'S NINTH REQUEST FOR CONFIDENTIAL  
CLASSIFICATION REGARDING SUPPLEMENTAL DOCUMENTS  
PRODUCED IN 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 supplemental documents produced in response to the Office of Public Counsel's ("OPC") Third Request for Production of Documents (Nos. 54-73), specifically numbers 61, 64, 65 and 71. These emails and attachments 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 emails and attachments 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**

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

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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 that is (i) intended to be and is treated as private confidential information by the Company, (ii)

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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 emails and attachments should be afforded confidential classification for the reasons set forth in the Affidavit of Sue Hardison, filed in support of PEF's Ninth Request for Confidential Classification, and for the following reasons.

The supplemental documents contain sensitive and confidential information related to the Levy Nuclear Project ("LNP"). More specifically, these documents are email communications discussing the Company's Engineering, Procurement, and Construction ("EPC") Agreement for the LNP, including confidential and proprietary information that is subject to that Agreement's confidentiality provision. Affidavit of Hardison, ¶¶ 4, 6. Also included are emails and attachments pertaining to and providing details of presentations provided to the Senior Management Committee ("SMC") and Board of Directors ("BOD"). These presentations, and the documents discussing them, contain highly confidential information regarding the Company's upper level plans, goals and strategies for the LNP (and other major projects not pertinent in this docket). Public disclosure of this information would give the Company's competitors invaluable insight into the 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.

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 ¶¶ 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. 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 the supplemental documents produced in response to OPC's Third Request for Production of Documents (Nos. 54-73), specifically numbers 61, 64, 65 and 71, be granted confidential classification and treated accordingly.

Respectfully submitted,

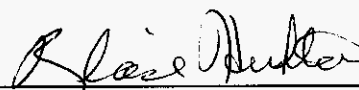


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CERTIFICATE OF SERVICE

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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State of Florida



## Public Service Commission

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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 05209-10 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.