

___ CLAIM OF CONFIDENTIALITY
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 REQUEST FOR CONFIDENTIALITY
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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

COMMISSION
CLERK

IN RE: NUCLEAR POWER PLANT COST
RECOVERY CLAUSE

Docket No. 100009-EI
Submitted for Filing: August 3, 2010

**PROGRESS ENERGY FLORIDA'S EIGHTEENTH REQUEST FOR CONFIDENTIAL
CLASSIFICATION REGARDING THE REBUTTAL TESTIMONY AND EXHIBITS OF
JEFF LYASH, JOHN ELNITSKY AND JON FRANKE**

Progress Energy Florida, Inc. ("PEF" or the "Company"), pursuant to Section 366.093, Florida Statutes, and Rule 25-22.006(3), Florida Administrative Code, requests confidential classification of portions of the Rebuttal Testimony and certain Exhibits thereto of Jeff Lyash, John Elnitsky and Jon Franke (collectively, the "Testimony"). Certain portions of the Testimony contain proprietary and confidential business information which the Company does not disclose to the public and the disclosure of which would impair PEF's competitive business interests. Furthermore, this information has been provided (in one form or another) to the various parties to this docket throughout the course of discovery, and at all times PEF has taken the appropriate steps to maintain its confidentiality.

The Testimony contains information that fits the definition of proprietary confidential business information pursuant to Section 366.093(3), and therefore the specified portions of the Testimony should be afforded confidential treatment by the Commission. PEF hereby submits

the following in support of its confidentiality request:

- COM
- APA
- ECR**
- GCL
- RAD
- SSC
- ADM
- OPC
- CLK *Pena*

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

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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) because disclosure of the information would cause harm, (iii) either to the Company’s ratepayers 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.

The Testimony, as explained below and in the supporting affidavits of John Elnitsky and Jon Franke, contains sensitive and confidential information related to the Levy Nuclear Project (“LNP”), including information related to the Company’s Engineering, Procurement and Construction (“EPC”) Agreement, as well as sensitive and confidential information related to the CR3 Uprate Project (“CR3 Uprate”). Portions of this information, in addition to containing sensitive and confidential terms, including contractual cost information, the disclosure of which would harm PEF’s competitive business interests, are also subject to contractual confidentiality agreements. Therefore, disclosure of this information would not only harm PEF and its ratepayers, but also constitute a breach of these agreements. Disclosure of this information would provide PEF’s competitors, as well as vendors, contractors and other parties with whom PEF may wish or need to contract, with information regarding the contractual terms to which

PEF is willing to agree. This knowledge could result in third parties changing their contract offers or requirements to the detriment of the Company and its ratepayers. See Affidavits of Elnitsky, ¶ 4; Franke, ¶¶ 4-5.

Additionally, the Testimony contains information regarding the Company's internal strategies for evaluating projects, and specifically evaluating the LNP and the amendments to the EPC. If such information was disclosed to PEF's competitors and/or other potential suppliers, PEF's efforts to obtain competitive nuclear equipment and service options that provide economic value to both the Company and its customers could be compromised by the Company's competitors and/or suppliers changing their offers, consumption, or purchasing behavior within the relevant markets. See Affidavit of Elnitsky, ¶ 4. The disclosure of this information would have a harmful impact on PEF's competitive interests. See id. Therefore, this information should be granted confidential classification pursuant to section 366.093(3)(d) and (e), Florida Statutes. In addition, portions of the Testimony contain internal audit information that resulted from the internal audit of the Company's various projects. If the Company were to know that its internal auditing controls and process were subject to public disclosure, it would compromise the level of cooperation needed with auditors to efficiently conduct audits. In addition, such information and documents are specifically defined by Section 366.093(3)(b) as proprietary confidential business information that is entitled to confidential status. See Affidavit of Franke, ¶ 4.

PEF has kept confidential and has not publicly disclosed the confidential information and documents at issue here. See Affidavit of Elnitsky, ¶ 5; Franke, ¶ 5. Additionally, the information contained in the Testimony at issue in this request has been provided to the parties in response to various discovery requests throughout these proceedings, and at all times the

Company has taken the appropriate steps to maintain its confidential treatment. See Affidavit of Elnitsky, ¶ 5; Franke, ¶ 6. Absent such measures, PEF would run the risk that sensitive business information regarding the LNP would be made to available to the public and, as a result, other parties could change their position in future negotiations with PEF. Without PEF's measures to maintain the confidentiality of sensitive information described herein, the Company's efforts to obtain competitive contracts and to obtain competitively priced goods and services would be undermined. See Affidavit of Elnitsky, ¶ 5; Franke, ¶ 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 those persons who need the information to assist the Company. See Affidavit of Elnitsky, ¶ 5; Franke, ¶ 6. At no time since receiving the information in question has the Company publicly disclosed that information; the Company has treated and continues to treat the information at issue as confidential. See Affidavit of Elnitsky, ¶ 5; Franke, ¶ 6.

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:

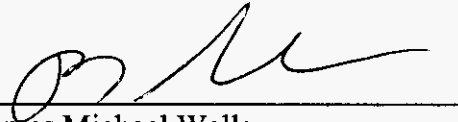
(1) A separate, sealed envelope containing a CD including the confidential documents as Attachment A to PEF's Request for Confidential Classification for which PEF has requested confidential classification with the appropriate section, pages, or lines containing the confidential information highlighted. **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 Attachment B; and,

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

WHEREFORE, PEF respectfully requests that the highlighted portions of the Rebuttal Testimony of Jeff Lyash, John Elnitsky and Jon Franke, given in this docket on August 3rd, 2010, 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 3rd day of August, 2010.



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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 August 3, 2010, in the above-referenced docket.

Document Number 06360-10 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.