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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

IN RE: NUCLEAR POWER PLANT COST
RECOVERY CLAUSE

Docket No. 100009-EI
Submitted for Filing: August 18, 2010

**PROGRESS ENERGY FLORIDA'S TWENTY-THIRD REQUEST FOR
CONFIDENTIAL CLASSIFICATION REGARDING PORTIONS OF THE
DEPOSITION OF WILLIAM R. JACOBS, JR., PH.D.**

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 William R. Jacobs, Jr., Ph.D.'s ("Dr. Jacobs") deposition given in the above referenced docket on July 27th, 2010 (the "Deposition"). Portions of the Deposition transcript contain confidential competitive business information related to the Levy Nuclear Project ("LNP"), including confidential information related to the LNP Engineering, Procurement & Construction ("EPC") agreement and amendments, the release of which would harm PEF's competitive business, and violate contractual confidentiality agreements. This information meets the definition of proprietary confidential business information pursuant to section 366.093(3)(d) & (e), Florida Statutes.

The Company filed its Fifth Notice of Intent to request confidential classification of these documents and responsive information on July 30, 2010. Therefore, pursuant to Rule 25-22.006(3)(a)1, this request is timely. PEF hereby submits the following in support of its confidentiality request:

- COM _____
- APA 1
- ECR 3
- GCL 1
- RAD 1
- SSC _____
- ADM _____
- OPC _____
- CLK Penia
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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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 NOTICE OF INTENT
 REQUEST FOR CONFIDENTIALITY
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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 Deposition, as explained below and in the supporting affidavit of John Elnitsky, contains confidential competitive business information related to the Levy Nuclear Project (“LNP”), including confidential information related to the LNP Engineering, Procurement & Construction (“EPC”) agreement and amendments, the release of which would harm PEF’s competitive business, and violate contractual confidentiality agreements. See Affidavit of Elnitsky, ¶ 4. The release of this information would not only violate those provisions, but would put PEF at a competitive disadvantage when attempting to negotiate future contracts. Furthermore, if PEF’s competitors or other parties with whom the Company may wish to contract with in the future were made aware of the contractual terms that the Company has agreed to in the past, they may alter their behavior in the marketplace for such goods or services, or simply alter their contractual demands, to PEF’s detriment. PEF must be able to assure the

vendors with which it contracts that the terms of such agreements will remain confidential, or risk being able to enter such contracts on beneficial terms, if at all. Id. Additionally, portions of the Deposition reflect the Company's internal strategies for evaluating projects and meeting deadlines. Id.

PEF has kept confidential and has not publicly disclosed the confidential information and amounts at issue here. See id., ¶ 5. Absent such measures, the Company's efforts to obtain competitive contracts and to obtain competitively priced goods and services would be undermined. See id. Furthermore, this information has been produced in response to various discovery requests throughout the discovery process, and at all times the Company has taken the appropriate steps to maintain its confidentiality. Id.

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 id. 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. Id.

CONCLUSION

The competitive, confidential information and numbers 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 William R. Jacobs, Jr., Ph.D.'s deposition given in the above referenced docket on July 27th, 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 18th 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 8/18/10 in the above-referenced docket.

Document Number 06849-10 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.