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110009-EI

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Subject: Docket 090009 Filing
Attachments: Docket 090009 1st Request for Extension of Confidential Classification Granted.pdf



Docket 090009
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Docket 090009
In re: Nuclear Cost Recovery Clause

1. Attached for filing on behalf of Progress Energy Florida, Inc. is PEF's First Request for Extension of Confidential Classification Granted by Order No. PSC-09-0483-CFO-EI and affidavit in support.
2. This document contains 8 pages.
3. This document is being filed by

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____ CLAIM OF CONFIDENTIALITY
 ____ NOTICE OF INTENT
 REQUEST FOR CONFIDENTIALITY/extension
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FOR DN 01647-09, WHICH IS IN LOCKED STORAGE. YOU MUST BE AUTHORIZED TO VIEW THIS DN. - CLK

DOCUMENT NUMBER-DATE

00130 JAN-6 =

FPSC-COMMISSION CLERK

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Nuclear Cost Recovery Clause

Docket No. 090009-EI

Submitted: January 6, 2011

**FIRST REQUEST FOR EXTENSION OF CONFIDENTIAL CLASSIFICATIONS
GRANTED BY ORDER NO. PSC-09-0483-CFO-EI**

NOW, BEFORE THIS COMMISSION, through undersigned counsel, comes Progress Energy Florida, Inc. ("PEF") and, pursuant to Rule 25-22.006(3), Florida Administrative Code, and Section 366.093 of the Florida Statutes, submits its First Request for Extension of Confidential Classification of certain information provided in portions of Exhibit WG-1 to Will Garrett's testimony (Document No. 01647-09). In support of its request, PEF states as follows:

1. On March 2, 2009, PEF requested confidential classification of portions of Exhibits WG-1 and WG-2 to the testimony of Will Garrett. That request was granted by Order No. PSC-09-0483-CFO-EI, issued on July 6, 2009. The period of confidential treatment granted by that order will soon expire. Accordingly, PEF is filing this request for an extension of confidential classification granted as to portions of Exhibit WG-1, Levy County Nuclear 1 and 2 Commission Schedules (T-1 through T-10), more specifically Schedules T-8, T-8A and T-8B.

2. PEF incorporates its March 2, 2009 Request, and Exhibit WG-1 attached thereto, herein by reference. Additionally, included with this request is an Exhibit D, containing the affidavit of John Burnett in support of the continued confidential classification of the Confidential Information.

3. All of the information in Exhibit WG-1 that was the subject of PEF's March 2, 2009 Request warrants continued treatment as proprietary information regarding PEF's confidential and proprietary internal strategies and analysis studies of PEF's projects and

contracts, within the meaning of Section 366.093(1), Florida Statutes. This material is intended to be and is treated by PEF as confidential and has not been disclosed. This material relates to the Levy Nuclear Project (“LNP”) which is an ongoing project. Pursuant to Section 366.093, such information is entitled to confidential treatment and is exempt from the disclosure provisions of the public records law. Thus, once the Commission determines that the information in question is proprietary confidential business information, the Commission is not required to engage in any further analysis or review such as weighing the harm of disclosure against the public interest in access to the information.

4. Portions of the Exhibit WG-1 to the Testimony of Will Garrett contain confidential contractual information regarding the purchase of equipment, materials, services and real property necessary for the construction and operation of the LNP. As indicated in the affidavit included as Exhibit D, public disclosure of the documents and information in question would impair PEF’s competitive business. Specifically, if PEF’s suppliers or competitors were made aware of PEF’s internal strategies and analysis studies, they may adjust their behavior in the market place with respect to activity such as pricing and the acquisition and provision of goods, materials, and services. Such information is protected from public disclosure pursuant to Sections 366.093(3)(d) and 366.093(3)(e), Florida Statutes.

5. Nothing has changed since the issuance of Order PSC-09-0483-CFO-EI to render the information stale or public, such that continued confidential treatment would not be appropriate. Accordingly, PEF requests that this information be accorded confidential classification for an additional eighteen month period. PEF further requests that the information be returned to PEF as soon as the information is no longer necessary for the Commission to conduct its business. *See* § 366.093(4), Fla. Stat.

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 Mail this 01st day of January, 2011.



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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Nuclear Cost Recovery Clause

Docket No. 090009-EI

**AFFIDAVIT OF JOHN T. BURNETT IN SUPPORT OF PROGRESS ENERGY FLORIDA'S
REQUEST FOR EXTENSION OF CONFIDENTIAL CLASSIFICATION REGARDING
PORTIONS OF EXHIBIT WG-1 FILED WITH THE TESTIMONY OF WILL GARRETT**

STATE OF FLORIDA

COUNTY OF PINELLAS

BEFORE ME, the undersigned authority duly authorized to administer oaths, personally appeared John T. Burnett, who being first duly sworn, on oath deposes and says that:

1. My name is John T. Burnett. I am over the age of 18 years old and I have been authorized by Progress Energy Florida (hereinafter "PEF" or the "Company") to give this affidavit in the above-styled proceeding on PEF's behalf and in support of PEF's Request for Extension of Confidential Classification Regarding Portions of Exhibit WG-1 filed with the Testimony of Will Garrett ("the Request"). The facts attested to in my affidavit are based upon my personal knowledge.

2. PEF is seeking continued confidential classification for portions of Exhibit WG-1 filed with, and sponsored by, the testimony of Will Garrett, filed with the Public Service Commission ("PSC" or the "Commission") on March 2, 2009, Document No. 01647-09. PEF is requesting confidential classification of portions of this exhibit because it contains confidential contractual information regarding the purchase of goods and services necessary to complete the Levy Nuclear Project ("LNP" or the "Project"), the disclosure of which would compromise PEF's competitive business interests.

3. Certain portions of this exhibit contain contractual descriptions, durations, quantities and pricing arrangements between PEF and providers of various equipment, services, and real property required for the LNP that would adversely impact PEF's competitive business interests if disclosed to the public. The Company must be able to assure these vendors that sensitive business information, such as the pricing and quantity terms of their contracts, will be kept confidential. Indeed, most of the contracts at issue contain confidentiality provisions that prohibit the disclosure of the terms of the contract to third parties. Specifically, the information at issue relates to competitively negotiated contractual data, such as quantity and pricing of goods and services and other contractual terms including the duration of the agreements, the disclosure of which would impair the efforts of the Company to negotiate these contracts on favorable terms. If third parties were made aware of confidential contractual terms that the Company has with other parties, they may offer PEF less competitive contractual terms in future contractual negotiations. Without PEF's measures to maintain the confidentiality of sensitive terms in contracts between PEF and these nuclear contractors, the Company's efforts to obtain competitive contracts for the Project would be undermined.

4. As stated above, most of the contracts at issue contain confidentiality provisions; therefore, PEF is requesting confidential classification of this information to avoid public disclosure that would violate the confidentiality agreements between PEF and the other parties. 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 the Company is willing to pay for necessary equipment, goods, supplies and real property would be made available to the public and, as a result, other potential sellers of similar materials and services could change their position in their negotiations to the detriment of PEF. In addition, by the terms of these contracts, all parties thereto - including PEF

- have agreed to protect proprietary and confidential information, which is defined to include the pricing provisions, from public disclosure.

5. Upon receipt of this confidential information, as with all confidential information, strict procedures are established and followed to maintain the confidentiality of the terms of the documents and information provided therein. Such procedures include, but are not limited to, restricting access to the documents and information to only those persons who require it to assist the Company. At no time since the developing or entering the contracts in question has PEF publicly disclosed the contracts' terms; PEF has treated and continues to treat the information contained in the subject contracts as confidential.

6. This concludes my affidavit.

Further affiant sayeth not.

Dated this 6th day of January, 2011.

(Signature)

John T. Burnett

Associate General Counsel of Progress Energy Florida

THE FOREGOING INSTRUMENT was sworn to and subscribed before me this 6th day of January, 2011 by John T. Burnett. He is personally known to me, or has produced his _____ driver's license, or his _____ as identification.

(Signature)

(Printed Name)

NOTARY PUBLIC

(Commission Expiration Date)

(Serial Number, if Any)

(AFFIX NOTARIAL SEAL)

