

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

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In re: Nuclear Power Plant Cost  
Recovery Clause

Docket No. 110009-EI  
Submitted for Filing: June 23, 2011

**PROGRESS ENERGY FLORIDA, INC.'S EIGHTH REQUEST FOR  
CONFIDENTIAL CLASSIFICATION REGARDING PORTIONS OF ITS  
RESPONSES TO STAFF'S THIRD SET OF INTERROGATORIES (NOS. 12-16)**

Progress Energy Florida, Inc. ("PEF" or the "Company"), pursuant to Section 366.093, Florida Statutes, and Rule 25-22.006(3), Florida Administrative Code, files this Request for Confidential Classification regarding portions of its responses to the Florida Public Service Commission's Staff's ("Staff") Third Set of Interrogatories (Nos. 12-16), specifically numbers 14 and 16. These responses 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 responses meet the definition of proprietary confidential business information per section 366.093(3), Florida Statutes. The unredacted documents and responses are being filed under seal with the Commission on a confidential basis to keep the competitive business information in those documents and responses confidential.

**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 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

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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 responses should be afforded confidential classification for the reasons set forth in the Affidavit of Mr. John Elnitsky, filed in support of PEF's Eighth Request for Confidential Classification, and for the following reasons.

The responses contain sensitive information concerning the Company's contractual debt service obligations, including contractual mortgage obligations. PEF considers this information to confidential and proprietary and continues to take steps to protect against its public disclosure, including limiting the personnel who have access to this information. See Affidavit of Elnitsky, ¶¶ 4-6. Public release of this information would provide PEF's competitors, and those parties it hopes to contract with in the future, valuable insight into the Company's financing obligations. This would put the Company at a competitive disadvantage when competing, or attempting to contract, with these other parties. Id. Accordingly, this information should be afforded confidential treatment by the Commission. See § 366.093(3)(d), Fla. Stat.

Additionally, the responses include information relating to potential joint owners of the Levy Nuclear Project ("LNP"). At this time, contractual negotiations are ongoing with

potential joint owners; the details of those negotiations, including the identities of the potential joint owners, are being maintained in strict confidence. Public release of this information could lead the parties PEF is negotiating with to alter negotiations positions, and possibly even end the negotiations. This would put the Company at a competitive disadvantage when competing, or attempting to contract, with these other parties, or any other potential joint owners. Affidavit of Elnitsky, ¶ 5. The Company treats this information as confidential and does not allow its publication to the public. Moreover, this information meets the definition of proprietary confidential business information under section 366.093(3)(d), Florida Statutes.

Further, the Company has established and follows strict procedures to maintain the confidentiality of the terms of all of the confidential documents and information at issue, including restricting access to those persons who need the information and documents to assist the Company. See Affidavit of Elnitsky, ¶ 6.

At no time has the Company publicly disclosed the confidential information or documents at issue; PEF has treated and continues to treat the information and documents at issue as confidential. See id.

PEF requests this information be granted confidential treatment by the Commission.

### **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, F.A.C., and therefore 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 which PEF intends to request 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 Commission;**


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

(3) A justification matrix of the confidential information contained in Appendix A supporting PEF's Request, as Appendix C.

WHEREFORE, PEF respectfully requests that the redacted portions of its responses to Staff's Third Set of Interrogatories (Nos. 12-16), specifically numbers 14 and 16, be classified as confidential for the reasons set forth above.

Respectfully submitted this 23<sup>rd</sup> day of June, 2011.

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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 23rd day of June, 2011.

  
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