

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: July 15, 2011

COMMISSION CLERK

PROGRESS ENERGY FLORIDA, INC.'S THIRTEENTH REQUEST FOR CONFIDENTIAL CLASSIFICATION REGARDING PORTIONS OF THE LATE FILED EXHIBIT OF JOHN ELNITSKY AND THE LATE FILED EXHIBITS OF 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, files this Request for Confidential Classification regarding portions of the late-filed exhibit of John Elnitsky, LFE No. 1, and the late-filed exhibits of Jon Franke, designated LFE No. 6 and LFE No. 7. These documents 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 documents 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 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 documents (collectively the "responsive information") should be afforded confidential classification for the reasons set forth in the Affidavits of John Elnitsky and Jon Franke, filed in support of PEF's Request for Confidential Classification, and for the following reasons.

The late-filed exhibit of Mr. Elnitsky contains sensitive proprietary and confidential information, including pricing and cost information, related to and derived from contractual agreements necessary to complete the Levy Nuclear Project ("LNP") including the Engineering, Procurement and Construction Agreement ("EPC Agreement"). The EPC Agreement includes confidentiality and non-disclosure provisions that forbid the public disclosure of this information. PEF considers this information to be confidential and proprietary and continues to take steps to protect against its public disclosure, including limiting the personnel who have access to this information. Affidavit of Elnitsky, ¶¶ 4-5. Public release of this information would harm the Company's ability to contract for necessary goods and services by signaling to the parties with whom PEF attempts to contract that the Company

will not be able to maintain the confidentiality of the parties' contractual agreements. See id. at ¶ 4. Additionally, this late-filed exhibit contains information regarding Senior Management's strategy and planning for the future of the LNP. Publication of this information would provide PEF's competitors and third-parties with whom PEF desires to contract with valuable insight into the long-term plans for the LNP. This information could cause those third-parties to alter their behavior in relative markets to the detriment of the Company and its customers. See id. at ¶ 4. Accordingly, this information should be afforded confidential treatment by the Commission. See § 366.093(3)(d) & (e), Fla. Stat.

Finally, the late-filed exhibits of Mr. Franke contain sensitive information, including pricing and cost information, related to and derived from contractual agreements necessary to complete the Crystal River Unit 3 Extended Power Uprate Project ("The CR3 EPU"). Many of these contracts include confidentiality and non-disclosure agreements prohibiting the public release of this information. PEF considers this information to be confidential and proprietary and continues to take steps to protect against its public disclosure, including limiting the personnel who have access to this information. Affidavit of Franke, ¶¶ 3-4. Public release of this information would harm the Company's ability to contract for the purchase and use of such information by signaling to the vendors that provide this information that the Company will not be able to maintain its confidentiality. See id. at ¶ 4. Accordingly, this information should be afforded confidential treatment by the Commission. See § 366.093(3)(d), Fla. Stat.

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, ¶ 5; Affidavit of Franke, ¶ 4.

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 Affidavit of Elnitsky, ¶ 5; Affidavit of Franke, ¶ 4.

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 the late-filed exhibit number 1 of John Elnitsky and the late-filed exhibits of Jon Franke, numbers 6 and 7, be classified as confidential for the reasons set forth above.

Respectfully submitted this 15th day of July, 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 15th day of July, 2011.



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