

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

RECEIVED
11 JUL 29 PM 2:10

In re: Nuclear Power Plant Cost
Recovery Clause

Docket No. 110009-EI
Submitted for Filing: July 29, 2011

COMMISSION
CLERK

**PROGRESS ENERGY FLORIDA, INC.'S SEVENTEENTH REQUEST FOR
CONFIDENTIAL CLASSIFICATION REGARDING PORTIONS
OF DEPOSITION OF WILLIAM "TRIPP" COSTON AND KEVIN CARPENTER**

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 Deposition Transcript of William "Tripp" Coston and Kevin Carpenter taken July 21, 2011 (the "Transcript"). The Transcript contains confidential and proprietary 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. The information in the Transcript meets the definition of proprietary confidential business information per section 366.093(3), Florida Statutes. The unredacted portions of the Transcript are being filed under seal with the Commission on a confidential basis to keep the competitive business information in the Transcript confidential.

claim of confidentiality
 notice of intent
 request for confidentiality
 filed by OPC

BASIS FOR CONFIDENTIAL CLASSIFICATION

For DN 05319-11, which is in locked storage. You must be authorized to view this DN.-CLK received by the

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 Company, (ii) because disclosure of the information would cause harm, (iii) either to the

DOCUMENT NUMBER - DN = 05318 JUL 29 = FPSC-COMMISSION CLERK

COM
APA
CR 3
SCL
LAD
SC
DM
PC
LK

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 Transcript should be afforded confidential classification for the reasons set forth in the Affidavit of Jon Franke filed in support of PEF's Request for Confidential Classification, and for the following reasons.

Portions of the Transcript Exhibit (collectively the "responsive information") contain references to the Crystal River Unit 3 ("CR3") Extended Power Uprate ("EPU") project ("CR3 Uprate") sections of the Audit Report, specifically, it contains confidential contractual information and numbers, the disclosure of which would impair PEF's competitive business interests and violate PEF's confidentiality agreements with third parties and vendors; information gleaned from internal audit controls and reports; contract and change order financial information; and other information the disclosure of which would impair the Company's competitive business interests. See Franke Affidavit ¶¶ 3-4.

The Company is requesting confidential classification of this information because the referenced material contains proprietary and confidential information that would impair PEF's competitive business interests if publicly disclosed, as well as information concerning contractual data, the disclosure of which would impair the Company's ability to contract on favorable terms and, in many cases, the information constitutes trade secrets of the Company

and its contract partners. See Franke Affidavit ¶¶ 3-4. In many instances, the disclosure of this information would violate contractual confidentiality provisions or is the result of recent negotiations with PEF vendors or ongoing contracts with vendors. Portions of these documents reflect the Company's internal strategies for evaluating projects. The information contains sensitive information concerning the CR3 Uprate project. Information regarding the CR3 Uprate includes highly confidential and proprietary competitive business information and numbers, the release of which would place PEF's competitors at a relative competitive advantage, thereby harming the interests of the Company and its customers. See Franke Affidavit ¶¶ 3-4; 6.

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. 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. If other third parties were made aware of confidential contractual terms that PEF has with other parties, they may offer less competitive contractual terms in future contractual negotiations. Without the Company's measures to maintain the confidentiality of sensitive terms in contracts with these nuclear contractors, the Company's efforts to obtain competitive contracts could be undermined to the detriment of PEF and its ratepayers. Franke Affidavit ¶¶ 4; 6.

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. 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 id. at ¶ 7.

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:

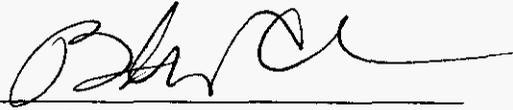
(1) A separate, sealed envelope containing one copy of the confidential Appendix A to PEF's Request for which PEF intends to request confidential classification with the appropriate section, pages, or lines containing the confidential information highlighted. **This information should be accorded confidential 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 Exhibit be classified as confidential for the reasons set forth above.

Respectfully submitted this 29th day of July, 2011.



R. Alexander Glenn
General Counsel
John Burnett
Associate General Counsel
Dianne M. Triplett
Associate General Counsel
PROGRESS ENERGY SERVICE
COMPANY, LLC
Post Office Box 14042
St. Petersburg, FL 33733-4042
Telephone: (727) 820-5587
Facsimile: (727) 820-5519

James Michael Walls
Florida Bar No. 0706242
Blaise N. Huhta
Florida Bar No. 0027942
Matthew R. Bernier
Florida Bar No. 0059886
CARLTON FIELDS, P.A.
Post Office Box 3239
Tampa, FL 33601-3239
Telephone: (813) 223-7000
Facsimile: (813) 229-4133

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 29th day of July, 2011.



Attorney

Anna Norris
Keino Young
Staff Attorney
Florida Public Service Commission
2540 Shumard Oak Blvd
Tallahassee 32399
Phone: (850) 413-6218
Facsimile: (850) 413-6184
Email: anorris@psc.state.fl.us
kyoung@psc.fl.state.us

Charles Rehwinkel
Associate Counsel
Erik Sayler
Associate Counsel
Office of Public Counsel
c/o The Florida Legislature
111 West Madison Street
Room 812
Tallahassee, FL 32399-1400
Phone: (850) 488-9330
Email: rehwinkel.charles@leg.state.fl.us
Sayler.erik@leg.state.fl.us

Vicki G. Kaufman
Jon C. Moyle, Jr.
Keefe Law Firm
118 North Gadsden Street
Tallahassee, FL 32301
Phone: (850) 681-3828
Fax: (850) 681-8788
Email: vkaufman@kagmlaw.com
jmoyle@kagmlaw.com

Bryan S. Anderson
Jessica Cano
Florida Power & Light
700 Universe Boulevard
Juno Beach, FL 33408-0420
Phone: (561) 691-7101
Facsimile: (561) 691-7135
Email: bryan.anderson@fpl.com
Jessica.cano@fpl.com

Mr. Paul Lewis, Jr.
Progress Energy Florida, Inc.
106 East College Avenue, Ste. 800
Tallahassee, FL 32301-7740
Phone: (850) 222-8738
Facsimile: (850) 222-9768
Email: paul.lewisjr@pgnmail.com

James W. Brew
F. Alvin Taylor
Brickfield Burchette Ritts & Stone, PC
1025 Thomas Jefferson St NW
8th FL West Tower
Washington, DC 20007-5201
Phone: (202) 342-0800
Fax: (202) 342-0807
Email: jbrew@bbrslaw.com
ataylor@bbrslaw.com

Matthew J. Feil
Gunster Yoakley & Stewart, P.A.
215 South Monroe Street, Ste. 601
Tallahassee, FL 32301
Phone: (850) 521-1708
Email: mfeil@gunster.com

Karen S. White
Staff Attorney
AFLSA/JACL-ULFSC
139 Barnes Drive, Ste. 1
Tyndall AFB, FL 32403-5319
Phone: (850) 283-6217
Email: Karen.white@tyndall.af.mil

Randy B. Miller
White Springs Agricultural Chemicals, Inc.
PO Box 300
White Springs, FL 32096
Email: RMiller@pscphosphate.com

Gary A. Davis
James S. Whitlock
Gary A. Davis & Associates
61 North Andrews Avenue
P.O. Box 649
Hot Springs, NC 28743
Email: gadavis@enviroattorney.com
jwhitlock@environattorney.com

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Nuclear Power Plant Cost Recovery
Clause

Docket No. 110009-E1

REDACTED

**Seventeenth
Request for Confidential Classification
Exhibit B**

DOCUMENT NUMBER-DATE

05318 JUL 29 =

FPSC-COMMISSION CLERK

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

In Re: Nuclear Cost
Recovery Clause

DOCKET NO. 110009-EI
FILED: July 14, 2011

_____ /

REDACTED

DEPOSITION OF: WILLIAM "TRIPP" COSTON AND
KEVIN CARPENTER

TAKEN ON BEHALF OF: PROGRESS ENERGY FLORIDA

DATE: Thursday, July 21, 2011

TIME: Commenced at 9:00 a.m.
Concluded at 1:50 p.m.

LOCATION: 2540 Shumard Oak Blvd.
Tallahassee, Florida

REPORTED BY: MICHELLE SUBIA, RPR
Notary Public in and for
the State of Florida
at Large

* * *

PREMIER REPORTING
114 WEST 5TH AVENUE
TALLAHASSEE, FLORIDA
(850) 894-0828

PREMIER REPORTING
(850) 894-0828
premier-reporting.com

DOCUMENT NUMBER-DATE
05318 JUL 29 =
FPSC-COMMISSION CLERK

REDACTED

1 MS. HUHTA: Would you agree?

2 MR. CARPENTER: I would agree.

3 MS. HUHTA: If we could turn to the Audit
4 Report, looking at page 13 of 48 of the Audit
5 Report, would you agree that your conclusions and
6 recommendations regarding the CR3 Uprate Project
7 EPU LAR was that, quote, Audit Staff believes that
8 the additional [REDACTED] spent to rewrite the
9 LAR was less about draft editing than restructuring
10 a poorly initiated draft"? Is that accurate?

11 MR. COSTON: That is correct. That is
12 accurate.

13 MR. YOUNG: This is one of those I thought
14 that we would -- not to interrupt -- to walk
15 gingerly on because the -- my guys know that since
16 it's highlighted in yellow it's confidential.

17 MS. HUHTA: Right.

18 MR. YOUNG: And if it's fine with you, if you
19 want them to say the number, if that's fine with
20 you, they will say the number, but however you want
21 to treat it.

22 MR. WALLS: We're fine with that.

23 MR. YOUNG: Okay.

24 MS. HUHTA: We're fine with the numbers. We
25 understand that there's going to be confidential

REDACTED

1 information in this deposition transcript that the
2 company will have to go through the appropriate
3 processes to keep confidential, to the extent it is
4 going to be filed with the Commission.

5 MR. YOUNG: Okay.

6 MR. WALLS: It just may be easier to use the
7 number to avoid confusion about what we're talking
8 about and what you're talking about.

9 MR. YOUNG: Okay.

10 MS. HUHTA: Is that statement I read from
11 page 13 of 48 accurate as a conclusion in your
12 Audit Report?

13 MR. COSTON: Yes.

14 MS. HUHTA: You go on to state on page 13,
15 quote, Audit Staff believes that the lack of
16 project management oversight during the initial
17 application development contributed to both the
18 underlying deficiencies and the need for the
19 additional Areva work -- Areva is A-r-e-v-a -- this
20 amount does not include any work related to
21 necessary engineering or project scope development;
22 therefore, Audit Staff believes that the
23 [REDACTED] spent was avoidable.

24 Is that an accurate statement of your
25 conclusions and recommendations regarding the CR3

REDACTED

1 MR. COSTON: I would agree that it says that
2 it's in reference to LAR quality issues.

3 MS. HUHTA: So is it your position that that
4 is one of the reasons for the LAR quality issues
5 that was identified by the Expert Panel --

6 MR. COSTON: Yes.

7 MS. HUHTA: -- in the June, July 2009 time
8 period?

9 MR. COSTON: Yes.

10 MS. HUHTA: For the initial draft of the LAR,
11 PEF agreed to a flat fee for Areva for [REDACTED] in
12 Work Authorization 84. Is that your understanding?

13 MR. COSTON: That is my recollection. Do you
14 have a copy of the document I could verify?

15 MS. HUHTA: Yes.

16 MR. COSTON: Thank you.

17 MS. HUHTA: On page four of 91 of Work
18 Authorization 84 under the chart labeled "Project
19 Milestone and Payment Schedule," line 8.28, LAR
20 inputs 51 Document, the amount noted is [REDACTED]; is
21 that accurate?

22 MR. COSTON: That is accurate, yes.

23 MS. HUHTA: And would you agree that the
24 initial draft of the LAR, PEF agreed to that flat
25 fee for Areva to provide the LAR 51 Document?

REDACTED

1 MR. COSTON: Yes.

2 MS. HUHTA: So under Progress Energy and
3 Areva's contract, Work Authorization 84, PEF agreed
4 to pay Areva [REDACTED] to produce the original Draft
5 LAR Document?

6 MR. COSTON: Yes.

7 MS. HUHTA: Mr. Carpenter, do you disagree
8 with Mr. Coston?

9 MR. CARPENTER: Yeah, I would agree that
10 [REDACTED] was in the contract for LAR inputs.

11 MS. HUHTA: For the LAR 51 Document?

12 MR. CARPENTER: Correct.

13 MS. HUHTA: Your understanding is that the
14 original EPU LAR Draft Document was supposed to be
15 modeled on NRC Guidelines RS-001 Review Standards
16 for Extended Power Uprates and the Ginna LAR
17 Document, correct?

18 MR. COSTON: Yes, I agree they used the
19 standards that you cited from the NRC as well as
20 the Ginna LAR Document.

21 MS. HUHTA: And Ginna is G-i-n-n-a.

22 THE COURT REPORTER: Thank you.

23 MS. HUHTA: Mr. Coston, did you review PEF's
24 rebuttal testimony from John Frank dated August 3rd
25 of 2010 in the 2010 NCRC Docket?

REDACTED

1 that. I'm not sure of the specific -- or I cannot
2 recall the specific amount.

3 MS. HUHTA: I am showing you Exhibit JF-5 of
4 John Frank's March 1st, 2011 direct testimony in
5 the 2011 NCRC Docket. And if you look at the
6 second paragraph, would you agree that it states
7 that PEF incurred 21,798 in internal labor costs
8 for EPU LAR Document development from January of
9 2009 to June 2009?

10 MR. COSTON: Yes.

11 MS. HUHTA: Mr. Carpenter, would you agree?

12 MR. CARPENTER: Yes.

13 MS. HUHTA: Mr. Coston, do you have any reason
14 to disagree with this amount?

15 MR. COSTON: No.

16 MS. HUHTA: Mr. Carpenter?

17 MR. CARPENTER: No.

18 MS. HUHTA: So Progress Energy incurred
19 [REDACTED] which would be [REDACTED] plus 110,261, plus
20 21,798 to produce the LAR Document that was
21 submitted to the Expert Panel in June, July 2009.
22 You don't have any reason to dispute that amount,
23 do you?

24 MR. COSTON: I agree those were the amounts
25 presented for those particular work schedules.

REDACTED

1 MS. HUHTA: Do you have any reason to dispute
2 that amount?

3 MR. COSTON: No.

4 MS. HUHTA: So Progress Energy Florida
5 incurred the cost of [REDACTED] approximately, to produce
6 the EPU LAR draft document that the Expert Panel
7 found in June, July 2009 did not meet the NRC
8 Acceptance Review Requirements at that time; is
9 that right?

10 MR. COSTON: Just a point or to clarify, if I
11 may. On the document that had the 21,000, may I
12 see that again?

13 MS. HUHTA: Yes. I have a copy of just the
14 exhibit, which might be easier to handle. My
15 apologies.

16 MR. COSTON: I want to make sure I got the
17 right numbers. I want to make sure I'm clear on
18 it.

19 I cannot tell from this -- I'm looking here
20 just to confirm -- that the augmented labor, the
21 21,000 includes any engineering costs, any other
22 preparation costs that may be included in that.
23 I'm not sure if those numbers are included in that
24 21,000.

25 MS. HUHTA: So your position is, is you're not

REDACTED

1 sure what would be included in the 21,000 of PEF
2 Company and augmented labor and expenses from
3 January of 2009 to June 2009?

4 MR. COSTON: Correct, that those include work
5 outside of the preparation team.

6 MS. HUHTA: What else do you think may be
7 included in that?

8 MR. COSTON: Not included, what makes up that
9 as far as if there's any engineering, any work, any
10 other team members outside of it, I'm not sure if
11 that number includes the services that may have
12 been completed by those individuals for the
13 preparation of the LAR.

14 MS. HUHTA: So if I understand you correctly,
15 your position is that -- you have no reason to
16 dispute the 21,000 is for company labor for LAR
17 document development; however, you're uncertain if
18 there was other company labor for additional
19 engineering and things that would have gone into
20 LAR document preparation?

21 MR. COSTON: Correct.

22 MS. HUHTA: As far as LAR document
23 preparation, meaning the preparation of the Draft
24 LAR Document, we agreed that in Work
25 Authorization 84 there was a line item of [REDACTED]

REDACTED

1 the original LAR Document submitted in June,
2 July 2009 to the Expert Panel, to the LAR Document
3 that was submitted to the Expert Panel in March of
4 2010 required more work, correct?

5 MR. COSTON: Yes.

6 MS. HUHTA: You would agree that the cost
7 incurred from June, July 2009 EPU LAR Draft to the
8 March 2010 LAR Document Draft was money spent by
9 PEF on Areva and internal labor and project
10 management costs?

11 MR. COSTON: Did you list an amount there?
12 I'm sorry. You just said the money -- may I have
13 you repeat the question?

14 MS. HUHTA: Certainly. You would agree that
15 the cost incurred going from the June, July 2009
16 EPU LAR Draft to the March 2010 EPU LAR Draft
17 Document was money spent by PEF on Areva and
18 internal labor and project management costs?

19 MR. COSTON: An additional cost range may have
20 been incurred as well but, yes, I would agree with
21 that statement.

22 MS. HUHTA: Okay. And you would agree that
23 the Areva cost is the [REDACTED] in Change Order
24 23, correct?

25 MR. COSTON: Yes.

**PROGRESS ENERGY FLORIDA
SEVENTEENTH REQUEST FOR CONFIDENTIAL CLASSIFICATION
CONFIDENTIALITY JUSTIFICATION MATRIX
Docket No. 110009**

DOCUMENT	PAGE/LINE	JUSTIFICATION
July 21, 2011 Deposition Transcript of William "Tripp" Coston and Kevin Carpenter	Page 19, Line 8, third and fourth words; Page 20, Line 23, first two words; Page 26, Line 11, second word from end, Line 20, second word from end; Page 27, Line 4, fourth word, Line 10, first word; Page 31, Line 19, first and fifth words; Page 32, Line 5, fifth word; Page 33, Line 25, last word; Page 77, Line 23, sixth and seventh words	<p>§366.093(3)(d), Fla. Stat. The document in question contains confidential contractual information, the disclosure of which would impair PEF's efforts to contract for goods or services on favorable terms.</p> <p>§366.093(3)(e), Fla. Stat. The document portions in question contain confidential information relating to competitive business interests, the disclosure of which would impair the competitive business of the provider/owner of the information.</p>