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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

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IN RE: NUCLEAR COST RECOVERY
CLAUSE

Docket No. 120009-EI
Submitted for Filing: October 1, 2012

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

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**PROGRESS ENERGY FLORIDA, INC.'S TENTH REQUEST
FOR CONFIDENTIAL CLASSIFICATION REGARDING
ITS POST-HEARING STATEMENT**

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 its Post-Hearing Statement of Issues and Positions and Arguments in Support of its Petition to Recover Costs ("Post-Hearing Statement"). Certain portions of the Post-Hearing Statement contain proprietary and confidential actual and estimated capital costs, which the Company does not disclose to the public and the disclosure of which would impair PEF's competitive business interests and violate contractual confidentiality provisions.

The Post-Hearing Statement contains information that fits the definition of proprietary confidential business information pursuant to Section 366.093(3), Fla. Stat., and therefore the specified portions of the Post-Hearing Statement should be afforded confidential treatment by the Commission. PEF hereby submits the following in support of its confidentiality request:

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

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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 Post-Hearing Statement, as explained below and in the supporting affidavit of Mr. John Elnitsky, contains confidential numbers related to the Levy Nuclear Project ("LNP"), including information related to the Company's actual and estimated capital costs. This includes contractual cost information under the Company's Engineering, Procurement and Construction ("EPC") agreement, the disclosure of which would harm PEF's competitive business interests, and is subject to contractual confidentiality provisions. See Affidavit of Elnitsky, ¶ 4. Therefore, disclosure of this information would not only harm PEF and its ratepayers, but also constitute a breach of these agreements. Id. Disclosure of this information would provide PEF's competitors, as well as vendors, contractors and other parties with whom PEF may wish or need to contract, with information regarding the contractual terms to which PEF is willing to agree. This knowledge could result in third parties changing their contract offers or requirements to the detriment of the Company and its ratepayers. Id. at ¶ 5.

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. See id. at ¶¶ 5-6. The disclosure of this information would have a harmful impact on PEF's competitive interests. See id. Therefore, this information should be granted confidential classification pursuant to section 366.093(3)(d) and (e), Florida Statutes.

PEF has kept confidential and has not publicly disclosed the confidential amounts at issue here. See id. at ¶ 7. Absent such measures, PEF would run the risk that confidential capital costs for the LNP would be made to available to the public and, as a result, other parties could change their position in future negotiations with PEF. Without PEF's measures to maintain the confidentiality of sensitive information described herein, the Company's efforts to obtain competitive contracts and to obtain competitively priced goods and services would be undermined. See id. at ¶¶ 5-6.

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. See id. at ¶ 7. 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. Furthermore, the information at issue (in one form or another) has previously been produced by the Company in response to various requests during the discovery process in this docket, and at all times the Company has taken the appropriate steps to maintain the confidentiality of this information. Id.

CONCLUSION

The competitive, confidential 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 request, 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 its Post-Hearing Statement 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 1st day of October, 2012.



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PROGRESS ENERGY FLORIDA
In re: Nuclear Cost Recovery Clause
Docket 120009-EI
Tenth Request for Confidential Classification

Exhibit B

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Hearing Exhibits No. 25 & No. 26). Consequently, the undisputed record evidence demonstrates that PEF's 2011 LNP project management, contracting, accounting and cost oversight controls are reasonable and prudent.

ISSUE 9: What system and jurisdictional amounts should the Commission approve as PEF's final 2011 prudently incurred costs and final true-up amounts for the Levy Units 1 & 2 project?

PEF Position:

REDACTED

*Capital Costs (System) [REDACTED]; (Jurisdictional) \$67,092,100.
O&M Costs (System) \$1,258,687; (Jurisdictional) \$1,154,469.
Carrying Costs \$48,658,064.

The over-recovery of \$12,649,655 should be included in setting the allowed 2013 NCRC recovery.

The 2011 variance is the sum of over-projection preconstruction costs of \$12,675,090, plus an over-projection of O&M expenses of \$260,104 plus an under-projection of carrying costs of \$285,540.*

**The Undisputed Evidence Demonstrates that PEF's Actual
2011 Costs Incurred for the LNP are Prudent**

The undisputed evidence demonstrates that the costs PEF incurred in 2011 for the LNP are prudent. (T. 225-234; 245-260; Hearing Exhibit No. 2). No intervenor presented nor elicited any evidence challenging the prudence of PEF's 2011 LNP actual costs. The evidence conclusively demonstrates that PEF's actual 2011 costs for the LNP are prudent.

ISSUE 10: What system and jurisdictional amounts should the Commission approve as reasonably estimated 2012 costs and estimated true-up amounts for PEF's Levy Units 1 & 2 project?

PEF Position:

REDACTED

*Capital Costs (System) [REDACTED]; (Jurisdictional) \$21,391,932.

O&M Costs (System) \$1,010,929; (Jurisdictional) \$927,458.

Carrying Costs \$48,548,055.

The Commission should also approve an estimated 2012 LNP project true-up over-recovery amount of \$13,013,480 to be included in setting the allowed 2013 NCRC recovery.

The 2012 variance is the sum of an over-projection of Preconstruction costs of \$12,617,788, plus an over-projection of O&M expenses of \$477,616 plus an under-projection of carrying charges of \$81,924.*

ISSUE 11: What system and jurisdictional amounts should the Commission approve as reasonably projected 2013 costs for PEF's Levy Units 1 & 2 project?

PEF Position:

REDACTED

*Capital Costs (System) [REDACTED] (Jurisdictional) \$95,888,097.

O&M Costs (System) \$1,106,148; (Jurisdictional) \$1,025,100.

Carrying Charges \$22,089,049.

For the LNP, an amount necessary to achieve the rates included in Exhibit 5 (\$3.45/1,000kWh on the residential bill) of the Settlement Agreement approved in Order No. PSC-12-104-FOF-EI page 147 should be included in establishing PEF's 2013 CCRC.*

PEF's 2012 Actual/Estimated and 2013 Projected LNP Costs are Reasonable in Amount and Necessary for the LNP

The undisputed evidence demonstrates that PEF's actual/estimated 2012 and projected 2013 costs for the LNP are reasonable. (T. 274-292; 363-420; Hearing Exhibit Nos. 4, 5, 6, 10). No intervenors presented or elicited any evidence disputing the reasonableness of any 2012 actual/estimated or 2013 projected LNP cost as

PROGRESS ENERGY FLORIDA DOCKET 120009-EI

Tenth Request for Confidential Classification

Confidentiality Justification Matrix

DOCUMENT	PAGE/LINE/ COLUMN	JUSTIFICATION
<p>Progress Energy Florida, Inc.'s Post-Hearing Statement of Issues and Positions and Arguments in Support of its Petition to Recover Costs of the Levy Nuclear Project and Crystal River Unit 3 Uprate Project as Provided in Section 366.93, Florida Statutes, and Rule 25-6.0423, F.A.C.</p>	<p>Page 24, 8th line on page, fourth word; Page 25, 5th line on page, fourth word, 18th line on page, fourth word</p>	<p>§366.093(3)(d), Fla. Stat. The document portions in question contain 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>