

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Examination of the outage and replacement fuel/power costs associated with the CR3 steam generator replacement project, by Progress Energy Florida, Inc.

DOCKET NO. 100437-EI
Submitted for Filing: Oct. 10, 2011
request for confidentiality
notice of intent
request for confidentiality
filed by OPC

For DN 07385-11, which is in locked storage. You must be authorized to view this DN.-CLK

PROGRESS ENERGY FLORIDA'S SECOND REQUEST FOR CONFIDENTIAL CLASSIFICATION

Progress Energy Florida, Inc. ("PEF" or the "Company"), pursuant to Section 366.093, Florida Statute, and Rule 25-22.006, Florida Administrative Code, files this Second Request for Confidential Classification regarding certain confidential portions of the Testimony and Exhibits of Alexander J. "Sasha" Weintraub.

Specifically, certain portions of the testimony and exhibits of Mr. Weintraub contain competitively sensitive business information such as what PEF paid for certain replacement power purchases and what companies PEF negotiated with and purchased from, the disclosure of which would adversely impact PEF's competitive business interests. Accordingly, PEF hereby submits the following.

Basis for Confidential Classification

Subsection 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

COM _____ that is (i) intended to be and is treated as private confidential information by the Company, (ii)
APA 1
ECR 3 because disclosure of the information would cause harm, (iii) either to the Company's ratepayers
GCL 1
RAD 1 or the Company's business operation, and (iv) the information has not been voluntarily disclosed
SRC _____
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to the public. §366.093(3), *Fla. Stat.* Specifically, “information relating to competitive interests” is defined as proprietary confidential business information if the disclosure of such information “would impair the competitive business of the provider of the information.” §366.093(3)(e), *Fla. Stat.*

The aforementioned portions of the testimony and exhibits of Mr. Weintraub should be afforded confidential classification because these portions contain proprietary confidential business information. Public disclosure of the information in question would impair PEF’s competitive business interests.

Testimony and Exhibits of Mr. Sasha Weintraub

Portions of the testimony and exhibits of Mr. Weintraub should be afforded confidential treatment for the reasons set forth in the Affidavit of Mr. Weintraub filed in support of PEF’s Second Request for Confidential Classification and for the following reasons. Portions of Mr. Weintraub’s direct testimony as well as his exhibits numbers SAW-2 and SAW-4 through SAW-12 contain proprietary confidential business information related to the extended outage at PEF’s Crystal River Unit 3 nuclear power plant, including information on negotiations and transactions with counterparties regarding replacement power and what PEF paid for certain power purchases in 2010 and 2011 and what companies PEF negotiated with and purchased from. The disclosure of this information would adversely impact PEF’s competitive business interests by disclosing sensitive business information and negotiation positions and strategies. *See* § 366.093(3)(d) and § 366.093(3)(e), *Fla. Stat.*; Affidavit of Weintraub at ¶ 5. For example, if PEF’s competitors and counterparties were made aware of such information, they may adjust their behavior in relevant markets and venues. *Id.* at 7. Accordingly, such information constitutes “proprietary

confidential business information” which is exempt from disclosure under the Public Records Act pursuant to Section 366.093(1), *Fla. Stat.*

Strict procedures are established and followed to maintain the confidentiality of the terms 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 Weintraub at ¶¶ 7-9. At no time has the Company publicly disclosed the confidential information or documents at issue. *Id.* at 9. The Company has treated and continues to treat the information and documents at issue as confidential. *Id.*

Conclusion

Certain portions of the testimony and exhibits of Mr. Weintraub fit 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 motion, PEF has enclosed the following:

(1) A separate, sealed envelope containing one copy of the confidential Appendix A to PEF’s Request for Confidential Classification 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 Florida Public Service Commission;**

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

(3) A justification matrix supporting PEF’s request for confidential classification of the highlighted information contained in confidential Appendix A, as Appendix C.

WHEREFORE, PEF respectfully requests that certain portions of the testimony and exhibits of Mr. Sasha Weintraub, described specifically in Attachment C, be classified as confidential for the reasons set forth above.

Respectfully submitted this 10th day of October, 2011.

A handwritten signature in black ink, appearing to read 'R. Alexander Glenn', is written over a horizontal line. The signature is stylized and extends to the right of the line.

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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 10th day of October, 2011.



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