

100370-EI

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

IN RE:

Docket No. - EI

Submitted for Filing: April 30, 2010

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**PROGRESS ENERGY FLORIDA'S REQUEST FOR  
CONFIDENTIAL CLASSIFICATION REGARDING THE  
ANNUAL STATUS REPORT**

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 of portions of Annual Status Report (the "Report") filed with the Florida Public Service Commission on April 30, 2010. Portions of the Report contain confidential and sensitive contractual information regarding the Company's nuclear projects, the disclosure of which would impair PEF's competitive business interest and ability to negotiate favorable contracts, and violate the contracts' nondisclosure provisions, and further includes other confidential and proprietary business information that would harm the Company's competitive business interests if made publicly available.

The unredacted documents discussed above are being filed under seal with the Commission as Appendix A on a confidential basis to keep the competitive business information

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In support of this request, PEF states as follows:

**The Confidentiality of the Documents at Issue**

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

DN 03650-10 Confidential  
DN 03651-10 Exh B  
DN 03652-10 AFFIDAVIT  
DN 03653-10 Exh C

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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 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, subsection 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.

As discussed in further detail below and in the supporting affidavit of Will Garrett portions of the Report contain confidential contractual information regarding the purchase of equipment, materials, and services necessary for the construction and operation of the Levy Nuclear Project (“LNP”). More specifically, a certain page of the Report contains details regarding PEF’s budgeted and estimated costs for the LNP, costs which are driven by confidential contracts with various vendors. See Affidavit of Garrett at ¶ 4.

Public dissemination of these costs would have an adverse effect on the Company’s competitive interests, as it would inform third-parties with whom PEF must contract how much PEF has budgeted for certain good and/or services, thus allowing those companies to artificially inflate their proposals to the detriment of the Company and its customers. Additionally, these costs are fueled by contracts already in place that are subject to confidentiality provisions. Accordingly, this information meets the definition of proprietary and confidential business

information pursuant to section 366.093(3)(d) & (e), Florida Statutes. See Affidavit of Garrett at ¶¶ 4-5.

PEF must be able to assure third parties that enter contractual agreements with the Company that sensitive business information, such as the pricing, duration, payment and quantity terms of their contracts, will be kept confidential. See id. at ¶ 6. Indeed, some of the contracts at issue contain confidentiality provisions that prohibit the disclosure of the terms of the contract to third parties. See id.

If third parties were made aware of confidential contractual terms that PEF has with other parties, they may offer PEF less competitive contractual terms in future contractual negotiations. See id. Absent the Company's measures to maintain the confidentiality of sensitive terms in contracts between PEF and vendors, the Company's efforts to obtain competitively priced supply and service contracts could be undermined. Id.

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 id. at ¶ 7. 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. 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 this 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 Fifth 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 documents 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 the redacted of portions of Annual Status Report (the "Report") filed with the Florida Public Service Commission on April 30, 2010, be classified as confidential for the reasons set forth above.

Respectfully submitted this 30<sup>th</sup> day of April, 2010.

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State of Florida



## Public Service Commission

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**DATE:** May 3, 2010  
**TO:** James Michael Walls, Carlton Fields, P.A. P.O. Box 3239, Tampa FL  
33601  
**FROM:** Diamond M. Williams, Office of Commission Clerk  
**RE:** Acknowledgement of Confidential Filing in Docket Number 100000-OT

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This will acknowledge receipt of a **CONFIDENTIAL DOCUMENT** filed in the above-referenced docket.

Document Number 03650-10 has been assigned to this filing, which will be maintained in locked storage.

If you have any questions regarding this document, please contact Kim Peña, Records Management Assistant, at (850) 413-6393.