

CLAIM OF CONFIDENTIALITY
 NOTICE OF INTENT
 REQUEST FOR CONFIDENTIALITY
 FILED BY OPC
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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

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IN RE: NUCLEAR POWER PLANT COST
RECOVERY CLAUSE

Docket No. 100009-EI
Submitted for Filing: Sept. 20, 2010

COMMISSION
CLERK

**PROGRESS ENERGY FLORIDA'S TWENTY-SEVENTH REQUEST FOR
CONFIDENTIAL CLASSIFICATION REGARDING PORTIONS OF
THE OPC'S POST-HEARING STATEMENT OF POSITIONS AND
POST-HEARING BRIEF FILED IN DOCKET NO. 100009-EI**

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 certain confidential portions of the Office of Public Counsel's Post-Hearing Statement of Positions and Post-Hearing Brief ("the Brief"). The Brief contains proprietary confidential business information related to the costs of the CR3 Uprate Project, including the License Amendment Request ("LAR"), and the Levy Nuclear Project ("LNP"), including costs related to the LNP EPC Agreement. These costs are incurred, in whole or in part, pursuant to PEF's contracts with third parties. These contracts contain confidentiality provisions forbidding the release of contractual terms, including pricing provisions. The disclosure of this information would harm PEF's competitive business interests by impeding the Company's ability to obtain such contracts, and would further violate the aforementioned confidentiality agreements.

COM _____ Furthermore, the Brief contains other proprietary confidential business information, including
APA 1
ECR 3 information related to the Company's internal assessment of risks. This information meets the
GCL 1
RAD 1 definition of proprietary confidential business information pursuant to section 366.093(3)(d) &
SSC _____ (e), Florida Statutes. Additionally, substantially similar information has been provided during
ADM _____
OPC _____ discovery in this docket, and at all times PEF has taken the appropriate steps to maintain the
CLK Pena confidentiality of this information.

PEF submitted its Tenth Notice of Intent to Request Confidential Classification of this confidential information on September 15, 2010. Therefore, pursuant to Rule 25-22.006(3)(a)1, this request is timely. PEF 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 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 Brief, as explained below and in the supporting affidavits of Sue Hardison and Jon Franke, contains confidential competitive business information related to the LNP EPC Agreement and amendments, as well as the CR3 Extended Power Uprate project, including the License Amendment Request (“LAR”) application.

The Brief contains confidential competitive business information related to the LNP, including confidential information related to the LNP EPC agreement and amendments, as well as confidential information related to the costs of the CR3 Uprate project, including the LAR. See Affidavit of Hardison, ¶ 4; Affidavit of Franke, ¶ 4. These project costs are incurred by the Company pursuant to its contractual agreements with third-parties, and as such these costs are subject to those contracts' confidentiality provisions. The publication of this information would not only violate those provisions, but would put PEF at a competitive disadvantage when attempting to negotiate future contracts and in present negotiations. See Affidavit of Hardison, ¶ 5; Affidavit of Franke, ¶ 4. Furthermore, if PEF's competitors or other parties with whom the Company may wish to contract with in the future were made aware of the contractual terms that the Company has agreed to in the past, they may alter their behavior in the marketplace for such goods or services, or simply alter their contractual demands, to PEF's detriment. PEF must be able to assure the vendors with which it contracts that the terms of such agreements will remain confidential, or risk not being able to enter such contracts on beneficial terms, if at all. See Affidavit of Hardison, ¶¶ 5-6; Affidavit of Franke, ¶ 4.

PEF has kept confidential and has not publicly disclosed the confidential information and amounts at issue here. See Affidavit Hardison, ¶ 7; Affidavit of Franke, ¶ 5. Absent such measures, the Company's efforts to obtain competitive contracts and to obtain competitively priced goods and services would be undermined. See Affidavit Hardison, ¶¶ 6-7; Affidavit of Franke, ¶¶ 4-5. Furthermore, this and other similar information has been produced in response to various discovery requests throughout the discovery process, and at all times the Company has taken the appropriate steps to maintain its confidentiality. See Affidavit Hardison, ¶ 7; Affidavit

of Franke, ¶ 5. Indeed, the Brief often cites directly to confidential material produced during discovery.

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 Affidavit Hardison, ¶ 7; Affidavit of Franke, ¶ 5. 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 Affidavit Hardison, ¶ 7; Affidavit of Franke, ¶ 5.

CONCLUSION

The competitive, confidential information and 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 motion, PEF has enclosed the following:

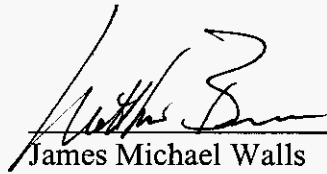
(1) A separate, sealed envelope containing a CD including the confidential documents as Attachment A to PEF's Request for Confidential Classification for which PEF has requested confidential classification with the appropriate section, pages, or lines containing the confidential information highlighted. **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, confidential portions of OPC's Post-Hearing Statement of Positions and Post-Hearing Brief filed in this docket 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 20th day of September, 2010.



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Re: Acknowledgement of Confidential Filing in Docket No. 100009-EI

This will acknowledge receipt by the Florida Public Service Commission, Office of Commission Clerk, of a CONFIDENTIAL DOCUMENT filed on September 20, 2010, in the above-referenced docket.

Document Number 07844-10 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.