

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

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In re: Nuclear Power Plant Cost Recovery Clause

Docket No. 110009-EI Submitted for Filing: August 19, 2011

COMMISSION CLERK

PROGRESS ENERGY FLORIDA, INC.'S EIGHTEENTH REQUEST FOR CONFIDENTIAL CLASSIFICATION REGARDING PORTIONS OF THE RESPONSE TO STAFF'S THIRD REQUEST FOR PRODUCTION OF DOCUMENTS

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 Company's Response to Staff's Third Request for Production of Documents (No. 7) ("Response"). The Response 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 Response meets the definition of proprietary confidential business information per section 366.093(3), Florida Statutes. The unredacted Response is being filed under seal with the Commission on a confidential basis to keep the competitive business information in the Response confidential.

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

BASIS FOR CONFIDENTIAL CLASSIFICATION

Section 366.093(1), Florida Statutes, provides that "any records received by the

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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

[All copies fwd have cd's attached containing redacted exhibit B] 059301

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

Portions of the Response contain confidential contractual information and numbers pertaining to the Crystal River Unit 3 ("CR3") Extended Power Uprate ("EPU") project ("CR3 Uprate") and the Levy Nuclear Project ("LNP"). Disclosure of this information would impair PEF's competitive business interests and violate PEF's confidentiality agreements with third parties and vendors. See Franke Affidavit ¶ 3; Elnitsky Affidavit ¶ 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; Elnitsky Affidavit ¶ 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. See Franke Affidavit ¶ 3; Elnitsky Affidavit ¶ 4. The information contains sensitive information concerning the LNP, including contractual information from the EPC Agreement for the construction of the LNP. This 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 Elnitsky Affidavit ¶ 4.

PEF considers this information to be 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. See Franke Affidavit ¶¶ 3-4; Elnitsky Affidavit ¶¶ 4-5.

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 Franke Affidavit ¶ 4; Elnitsky Affidavit ¶ 5.

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 Response be classified as confidential for the reasons set forth above.

Respectfully submitted this 19th day of August, 2011.



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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 19th day of August, 2011.



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