

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

RECEIVED-PPSC
Sun 02 Knup
08 MAY 30 AM 11:37

COMMISSION
CLERK

In re: Petition for determination of need
for Levy Units 1 and 2 nuclear power plants,
by Progress Energy Florida, Inc.

Docket No. 080148-EI

Submitted for Filing: June 2, 2008

**PROGRESS ENERGY FLORIDA'S NINTH REQUEST FOR CONFIDENTIAL
CLASSIFICATION REGARDING LATE-FILED DEPOSITION EXHIBITS**

Progress Energy Florida ("PEF" or the "Company"), pursuant to Section 366.093, Fla. Stats., and Rule 25-22.006, F.A.C., files this Request for Confidential Classification regarding Late-Filed Deposition Exhibits of Daniel L. Roderick Exhibit No. 1 and Sasha Weintraub Exhibit No. 1. Specifically, these exhibits contain sensitive, confidential contractual terms for nuclear goods and services as well as confidential fuel forecasts from third-party vendors, that if disclosed would result in the impact PEF's ability to contract on favorable terms in the future. 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. Stats. 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. Stats. Specifically, subsection 366.093(3)(e) defines "information relating to competitive interests, the disclosure of which

CMP _____
COM _____
CON _____
COP _____
CPC _____
PCA _____
SCR _____
SCA _____
SEC _____
OTH _____

conf records

DOCUMENT NUMBER-DATE

04666 JUN-28

FPSC-COMMISSION CLERK

would impair the competitive business of the provider of the information,” as proprietary confidential business information.

Late-Filed Deposition Exhibit of Daniel L. Roderick No. 1

Portions of the Late-Filed Deposition Exhibit of Daniel L. Roderick No. 1 contains confidential contractual information regarding the purchase of equipment and services necessary to complete the Levy Nuclear Project. Part of this exhibit contains information regarding contractual arrangements between PEF and providers of nuclear equipment and services that would adversely impact PEF’s competitive business interests if disclosed to the public. See Affidavit of Daniel L. Roderick at ¶ 5. PEF must be able to assure these vendors that sensitive business information, such as the terms of their contracts, will be kept confidential. Id. Indeed, the contracts at issue contains confidentiality provisions that prohibit the disclosure of the terms of the contract to third parties. Id.

Specifically, the information at issue relates to competitively negotiated contractual data and other contractual terms, the disclosure of which would impair the efforts of the Company to negotiate these contracts on favorable terms. See § 366.093(3)(d), Fla. Stats.; Affidavit of Roderick at ¶ 5. If other 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. Id. Without PEF’s measures to maintain the confidentiality of sensitive terms in contracts between PEF and nuclear contractors, the Company’s efforts to obtain competitive contracts for the Levy Nuclear Project could be undermined. Id.

Upon receipt of this confidential information, and with its own confidential information, strict procedures are established and followed to maintain the confidentiality of the documents and information provided, including restricting access to those persons who need the information

to assist the Company, and restricting the number of, and access to the information. (Id. at ¶ 6). At no time since receiving the information in question has the Company publicly disclosed that information. Id. The Company has treated and continues to treat the information at issue as confidential. Id.

Late-Filed Deposition Exhibit of Sasha Weintraub Exhibit No. 1

Portions of the Late-Filed Deposition Exhibit of Sasha Weintraub Exhibit No. 1 should be afforded confidential treatment for the reasons set forth in the Affidavit of Sasha Weintraub filed in support of PEF's Request for Confidential Classification and for the following reasons. Specifically, portions of the exhibit contains coal forecasting data and market information, which PEF purchases from third party entities. The terms of the contracts under which PEF purchases these fuel forecasts require PEF to maintain the information contained in these reports as confidential. See Affidavit of Sasha Weintraub at ¶ 5. Disclosure of this information would violate the terms of those confidentiality agreements. In addition, if PEF disclosed this confidential forecasting data, the third parties that see this data may be unwilling in the future to offer such information to PEF, which could adversely affect PEF's competitive business interests in buying fuel. Id.

Upon receipt of this confidential information, and with its own confidential information, strict procedures are established and followed to maintain the confidentiality of the documents and information provided, including restricting access to those persons who need the information to assist the Company, and restricting the number of, and access to the information. (Id. at ¶ 6). At no time since receiving the information in question has the Company publicly disclosed that information. Id. The Company has treated and continues to treat the information at issue as confidential. Id.

Conclusion

The competitive, confidential information at issue in this request fits the statutory definition of proprietary confidential business information under Section 366.093 and Rule 25-22.006, F.A.C. Separate sealed envelopes containing one copy of the confidential exhibits for which PEF intends to request confidential classification with the appropriate section, pages, or lines containing the confidential information highlighted is enclosed herewith as Attachment "A." **This information should be accorded confidential treatment pending a decision on PEF's request by the Florida Public Service Commission.**


Additionally, two copies of the confidential exhibits with the information that PEF intends to request confidential classification redacted by section page, or lines, are also included herewith as Attachment "B."

Attachment "C" hereto contains a justification matrix supporting PEF's request for confidential classification of the highlighted information contained in Attachment A.

WHEREFORE, PEF respectfully requests that the Late-Filed Deposition Exhibits of Daniel L. Roderick Exhibit No. 1 and Sasha Weintraub Exhibit No. 1, described specifically in Attachment C, be classified as confidential for the reasons set forth above.

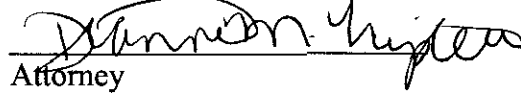
Respectfully submitted this 2nd day of June, 2008.

R. Alexander Glenn
General Counsel
PROGRESS ENERGY SERVICE
COMPANY, LLC
Post Office Box 14042
St. Petersburg, FL 33733-4042
Telephone: (727) 820-5587
Facsimile: (727) 820-5519


James Michael Walls
Florida Bar No. 0706242
Dianne M. Triplett
Florida Bar No. 0872431
CARLTON FIELDS, P.A.
Post Office Box 3239
Tampa, FL 33601-3239
Telephone: (813) 223-7000
Facsimile: (813) 229-4133

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished via electronic and U.S. Mail this 2nd day of June, 2008 to all parties of record as indicated below.


Attorney

Mr. Paul Lewis, Jr.
Progress Energy Florida, Inc.
106 East College Avenue, Ste. 800
Tallahassee, FL 32301-7740
Phone: (850) 222-8738
Facsimile: (850) 222-9768
Email: paul.lewisjr@pgnmail.com

Katherine Fleming
Staff Attorney
Florida Public Service Commission
2540 Shumard Oak Blvd
Tallahassee 32399
Phone: (850) 413-6218
Email: keflemin@psc.state.fl.us

Stephen C. Burgess
Associate Counsel
Office of Public Counsel
c/o The Florida Legislature
111 West Madison Street
Room 812
Tallahassee, FL 32399-1400
Phone: (850) 488-9330
Email: Burgess.steve@leg.state.fl.us

Charles Gauthier
Division of Community Planning
2555 Shumard Oak Blvd.
Tallahassee, FL 32399-2100
Phone: (850) 487-4545
Facsimile: (850) 488-3309
Email: charles.gauthier@dca.state.fl.us

Michael P. Halpin
Siting Coordination Office
2600 Blairstone Road, MS 48
Tallahassee, FL 32301
Phone: (850) 245-8002
Facsimile: (850) 245-8003
Email: Mike.Halpin@dep.state.fl.us

James W. Brew
Brickfield Burchette Ritts & Stone, PC
1025 Thomas Jefferson St NW
8th FL West Tower
Washington, DC 20007-5201
Phone: (202) 342-0800
Fax: (202) 342-0807
Email: jbrew@bbrslaw.com
-and-

E. Leon Jacobs, Jr.
Williams & Jacobs, LLC
1720 S. Gadsden St. MS 14
Suite 201
Tallahassee, FL 32301
Phone: (850) 222-1246
Fax: (850) 599-9079
Email: Ljacobs50@comcast.net

Karin S. Torain
PCS Administration (USA), Inc.
Suite 400
Skokie Blvd.
Northbrook, IL 60062
Phone: (847) 849-4291
Email: KSTorain@potashcorp.com

Dean Edwards
Inglis Hydropower, LLC
P.O. Box 1565
Dover, FL 33527
Phone: (813) 659-3014
Email: inglishydro@hotmail.com

CONFIDENTIAL

STATE OF FLORIDA

COMMISSIONERS:
MATTHEW M. CARTER II, CHAIRMAN
LISA POLAK EDGAR
KATRINA J. MCMURRIAN
NANCY ARGENZIANO
NATHAN A. SKOP



OFFICE OF COMMISSION CLERK
ANN COLE
COMMISSION CLERK
(850) 413-6770

Public Service Commission

ACKNOWLEDGEMENT

DATE: June 2, 2008

TO: Dianne Triplett, Carlton Fields

FROM: Ruth Nettles, Office of Commission Clerk

RE: Acknowledgement of Receipt of Confidential Filing

This will acknowledge receipt of a **CONFIDENTIAL DOCUMENT** filed in Docket Number 080148 or, if filed in an undocketed matter, concerning late-filed Deposition Exhibits of Daniel L. Roderick Exhibit No. 1 and Sasha Weintraub Exhibit No. 1, and filed on behalf of Progress Energy. The document will be maintained in locked storage.

If you have any questions regarding this document, please contact Marguerite Lockard, Deputy Clerk, at (850) 413-6770.

DOCUMENT NUMBER - DATE
04667 JUN-28
FPSC-COMMISSION CLERK

CAPITAL CIRCLE OFFICE CENTER • 2540 SHUMARD OAK BOULEVARD • TALLAHASSEE, FL 32399-0850
An Affirmative Action/Equal Opportunity Employer

PSC Website: <http://www.floridapsc.com>

Internet E-mail: contact@psc.state.fl.us