

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

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In re: Petition for increase in rates by
Progress Energy Florida, Inc.

Docket No. 090079-FL
Submitted for Filing May 11, 2009
COMMISSION CLERK

**PROGRESS ENERGY FLORIDA'S SECOND REQUEST FOR
CONFIDENTIAL CLASSIFICATION**

Progress Energy Florida ("PEF" or the "Company"), pursuant to Section 366.093, Fla. Stat., and Rule 25-22.006(3), F.A.C., requests confidential classification of certain documents produced in response to Staff's Second Request for Production of Documents and the information provided in response to Staff's First Set of Interrogatories. The documents being produced in response to Staff's Second Request for Production contain confidential contractual data, while the information provided in response to Staff's First Interrogatories contains sensitive shared executive compensation data, the disclosure of which could seriously impair the Company's competitive business interests. 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 in those documents confidential.

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 Act]." § 366.093(1), Fla. Stat. Proprietary confidential business information means information

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- GCL that is (i) intended to be and is treated as private confidential information by the Company, (ii)
- OPC because disclosure of the information would cause harm, (iii) either to the Company's ratepayers
- RCF or the Company's business operation, and (iv) the information has not been voluntarily disclosed
- BSC
- SGA
- ADM
- CLK 14970452.1

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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.

Certain documents being produced in response to Staff’s Second Request for Production of Documents contain confidential contractual information such as the pricing information between PEF and its counsel in this matter, the disclosure of which would compromise the Company’s competitive business interests. See Affidavit of Peter Toomey at ¶3. Specifically, the information at issue includes costs and billing arrangements between PEF and its vendors. Disclosure of this proprietary and confidential information could adversely affect the Company’s ability to secure such good and services at favorable terms in the future. Furthermore, disclosure of this information could affect the behavior of such third party vendors when offering prices and contractual terms for these goods and services. Finally, PEF is required to maintain this contractual information as confidential pursuant to the terms of the contracts with its third party vendors. See id. at ¶4; § 366.093(3)(d), Fla. Stat.

The information being provided in response to Staff’s First Interrogatories contains confidential information, the disclosure of which would impair the Company’s competitive business interests. See Affidavit of Masceo DesChamps at ¶3. Specifically, the disclosure of the amount of salary, bonuses, and overall compensation that PEF is willing to pay its executives would have an adverse impact on the Company’s ability to contract with and retain qualified

individuals, by allowing other companies an advantage in negotiating with such employees. See id. at ¶4; § 366.093(3)(d) & (e), 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 Toomey at ¶ 5; Affidavit of Des Champs at ¶ 5. 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. See Affidavit of Toomey at ¶ 5; Affidavit of Des Champs at ¶ 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 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 portions of the above-referenced discovery responses be classified as confidential for the reasons set forth above.

Respectfully submitted this day of May 1, 2009.

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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 15th day of May, 2009.


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Public Service Commission

ACKNOWLEDGEMENT

DATE: May 1, 2009

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 090079 or, if filed in an undocketed matter, concerning certain documents in response to staff's 2nd Request for PODs, and staff's 1st set of Interrogatories, and filed on behalf of Progress Energy Florida. 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.

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