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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

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COMMISSION CLERK

In re: Nuclear Power Plant Cost

Docket No. 110009-EI

Submitted for Filing: August 31, 2011

- claim of confidentiality
- notice of intent
- request for confidentiality
- filed by OPC

**PROGRESS ENERGY FLORIDA, INC.'S TWENTIETH REQUEST FOR
CONFIDENTIAL CLASSIFICATION REGARDING
PORTIONS OF HEARING EXHIBITS 207, 210, AND 212**

For DN 00282-11, which is in locked storage. You must be authorized to view this DN.-CLK

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 hearing exhibits 207, 210 and 212 entered into evidence. The exhibits contain confidential and proprietary contractual cost and project schedule 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, including strategic presentations provided to the Senior Management Committee ("SMC"). The information exhibits meet the definition of proprietary confidential business information per section 366.093(3), Florida Statutes. The unredacted exhibits are being filed under seal with the Commission on a confidential basis to keep the competitive business information in the transcript and exhibits confidential.

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

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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 exhibits (collectively the "responsive information") should be afforded confidential classification for the reasons set forth in the Affidavit of John Elnitsky filed in support of PEF's Request for Confidential Classification, and for the following reasons.

The hearing exhibits 210 and 212 contain sensitive proprietary and confidential information, including pricing and project schedule information, related to and derived from contractual agreements necessary to complete the Levy Nuclear Project ("LNP") including the Engineering, Procurement and Construction Agreement ("EPC Agreement"). The EPC Agreement includes confidentiality and non-disclosure provisions that forbid the public disclosure of this information. PEF considers this information to confidential and proprietary and continues to take steps to protect against its public disclosure, including limiting the personnel who have access to this information. Affidavit of Elnitsky, ¶ 4. Public release of this information would harm the Company's ability to contract for necessary goods and

services by signaling to the parties with whom PEF attempts to contract that the Company will not be able to maintain the confidentiality of the parties' contractual agreements. See id.

Further, the responsive information in hearing exhibit 207 includes presentations provided to the Company's SMC. This information contains confidential and proprietary strategic information. The public release of this sensitive information would put the Company at a competitive disadvantage when competing, or attempting to contract, with other parties, and would provide other parties with valuable insight into the Company's strategic processes. See Affidavit of Elnitsky, ¶¶ 5-6. The Company treats this information as confidential and does not allow its publication to the public. Moreover, this information meets the definition of proprietary confidential business information under section 366.093(3)(d) and (e), Florida Statutes.

Further, the Company has established and follows strict procedures to maintain the confidentiality of the terms of all 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. See id. at ¶¶ 5-7.

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 hearing exhibits 207, 210, and 212 be classified as confidential for the reasons set forth above.

Respectfully submitted this 31st day of August, 2011.

R. Alexander Glenn
General Counsel
John Burnett
Associate General Counsel
Dianne M. Triplett
Associate 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
Blaise N. Huhta
Florida Bar No. 0027942
Matthew R. Bernier
Florida Bar No. 0059886
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 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 31st day of August, 2011.



Attorney

Anna Norris
Keino Young
Staff Attorney
Florida Public Service Commission
2540 Shumard Oak Blvd
Tallahassee 32399
Phone: (850) 413-6218
Facsimile: (850) 413-6184
Email: anorris@psc.state.fl.us
kyoung@psc.fl.state.us

Charles Rehwinkel
Associate Counsel
Erik Sayler
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: rehwinkel.charles@leg.state.fl.us
Sayler.erik@leg.state.fl.us

Vicki G. Kaufman
Jon C. Moyle, Jr.
Keefe Law Firm
118 North Gadsden Street
Tallahassee, FL 32301
Phone: (850) 681-3828
Fax: (850) 681-8788
Email: vkaufman@kagmlaw.com
jmoyle@kagmlaw.com

Bryan S. Anderson
Jessica Cano
Florida Power & Light
700 Universe Boulevard
Juno Beach, FL 33408-0420
Phone: (561) 691-7101
Facsimile: (561) 691-7135
Email: bryan.anderson@fpl.com
Jessica.cano@fpl.com

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

James W. Brew
F. Alvin Taylor
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
ataylor@bbrslaw.com

Matthew J. Feil
Gunster Yoakley & Stewart, P.A.
215 South Monroe Street, Ste. 601
Tallahassee, FL 32301
Phone: (850) 521-1708
Email: mfeil@gunster.com

Karen S. White
Staff Attorney
AFLSA/JACL-ULFSC
139 Barnes Drive, Ste. 1
Tyndall AFB, FL 32403-5319
Phone: (850) 283-6217
Email: Karen.white@tyndall.af.mil

Randy B. Miller
White Springs Agricultural Chemicals, Inc.
PO Box 300
White Springs, FL 32096
Email: RMiller@pscphosphate.com

Gary A. Davis
James S. Whitlock
Gary A. Davis & Associates
61 North Andrews Avenue
P.O. Box 649
Hot Springs, NC 28743
Email: gadavis@enviroattorney.com
jwhitlock@environattorney.com