

NANCY ARGENZIANO
COMMISSIONER

STATE OF FLORIDA



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Tallahassee, FL 32399-0850
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Public Service Commission

July 16, 2009

RECEIVED-FPSC
09 JUL 16 AM 11:14
COMMISSION
CLERK

Matthew M. Carter, III
Chairman
Florida Public Service Commission

080677-EI
090079-EI

Re: Confidentiality of Compensation Amounts

Dear Chairman Carter:

I requested information regarding total compensation for each employee earning over \$165,000 from each of the Investor Owned Utilities (IOUs) under the regulatory purview of the FPSC. This request took the form of discovery in the pending Florida Power and Light (FPL) and Progress Energy Florida (PEF) rate cases, and Staff Data Requests to Tampa Electric Company (TECO), Gulf Power Company, and Florida Public Utilities Company

Subsequent to my request, FPL and PEF filed requests that the information supplied in response to staff interrogatories, and TECO the response to the Staff Data Request, be granted confidential classification, and be treated confidentially. Copies of those requests are attached hereto.

I request, as provided by Rule 25-22.006, F.A.C., you schedule, or have scheduled, expedited consideration of the Requests for Confidential Classification, and thereafter immediate issuance of a determination.

My request for the information is an initial foray into what I perceive as continuing gross abuse of the proprietary interest exemption contained in statute hampering the public's access to information. I believe the statute specifically makes compensation disclosures not exemptible. Section 366.093(3)(f), Florida Statutes.

Thank you for your immediate attention to this matter, and your advice of when deliberations will be had.

Nancy Argenziano
Commissioner

Attachments

cc: Commissioners Edgar, McMurrian, Skop
Docket Files 080677-EI, 090079-EI

DOCUMENT NUMBER - DATE

07185 JUL 16 08

FPSC-COMMISSION CLERK

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

Florida Regulated Utilities Employee)
Compensation.)
_____)

UNDOCKETED

FILED: July 1, 2009

**TAMPA ELECTRIC COMPANY'S
NOTICE OF INTENT TO SEEK CONFIDENTIAL CLASSIFICATION**

Tampa Electric Company ("Tampa Electric" or "the company"), pursuant to Section 366.093, Florida Statutes, and Rule 25-22.006, Florida Administrative Code, files this its Notice of Intent to Seek Confidential Classification of certain information the Commission's Staff has requested an opportunity to review and, as grounds therefor, says:

1. The Commission Staff in an informal data request dated June 29, 2009 regarding an audit of Florida's regulated utilities' employee compensation has requested an opportunity to review certain documents that contain sensitive employee information that constitutes proprietary confidential business information.

2. In order to accommodate Staff's request, Tampa Electric is submitting under separate cover a confidential version of the material, all of which is highlighted in yellow or printed on yellow paper stock and stamped "CONFIDENTIAL".

3. This Notice of Intent will be followed up in a timely fashion by a full justification of the need for confidential treatment of the sensitive employee information.

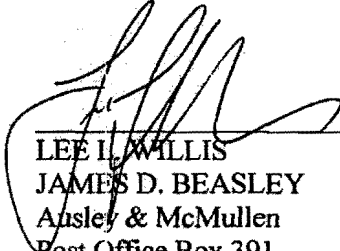
DOCUMENT NUMBER-DATE

06654 JUL-18

FPSC-COMMISSION CLERK

DATED this 1st day of July, 2009.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "L. Willis", is written over a horizontal line. The signature is stylized and cursive.

LEE I. WILLIS
JAMES D. BEASLEY
Ausley & McMullen
Post Office Box 391
Tallahassee, Florida 32302
(850) 224-9115

ATTORNEYS FOR TAMPA ELECTRIC COMPANY

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Petition for increase in rates by)
Florida Power & Light Company)

Docket No. 080677-EI

In Re: 2009 depreciation and dismantlement)
study by Florida Power & Light Company)

Docket No. 090130-EI

Filed: July 1, 2009

**FLORIDA POWER & LIGHT COMPANY'S
NOTICE OF INTENT TO REQUEST CONFIDENTIAL CLASSIFICATION**

Pursuant to Florida Administrative Code Rule 25-22.006(3)(a), Florida Power & Light Company ("FPL") files this Notice of Intent to Request Confidential Classification with respect to material provided to the Staff of the Florida Public Service Commission ("Staff") in response to Staff's Third Set of Interrogatories (No. 16), Staff's Fourth Set of Interrogatories (No. 32), and the South Florida Hospital and Healthcare Association's ("SFHHA's") Tenth Request for Production of Documents (No. 102) in Docket No. 080677-EI. Copies of Staff's Third Set of Interrogatories (No. 16), Staff's Fourth Set of Interrogatories (No. 32), and SFHHA's Tenth Request for Production of Documents (No. 102), are attached hereto as Composite Attachment 1. FPL, pursuant to Rule 25-22.006(3)(a), requests confidential handling of the material furnished in response to this Staff request, which is enclosed in the attached envelope labeled "Attachment 2 - CONFIDENTIAL INFORMATION." This information is intended to be and has been treated by FPL as private and confidential and has not been publicly disclosed.

DOCUMENT NUMBER-DATE


06643 JUL -1 8

FPSC-COMMISSION CLERK

Respectfully submitted this 1st day of July, 2009.

R. Wade Litchfield, Vice President of
Regulatory Affairs and Chief Regulatory Counsel
John T. Butler, Managing Attorney
Scott A. Goorland, Principal Attorney
Attorneys for Florida Power & Light Company
700 Universe Boulevard
Juno Beach, Florida 33408-0420
Telephone: (561) 691-7101
Facsimile: (561) 691-7135

By: 

 Scott A. Goorland
Florida Bar No. 0066834

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

RECEIVED-FPSC
09 MAY -1 AM 11:15

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

Docket No. 090079-FL
Submitted for Filing
COMMISSION CLERK 0409

**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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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
14970452.1

DOCUMENT NUMBER-DATE
04091 MAY-1 8
FPSC-COMMISSION CLERK

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.

R. Alexander Glenn
General Counsel
PROGRESS ENERGY SERVICE
COMPANY, LLC
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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 1st day of May, 2009.


Attorney

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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

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

Docket No. 090079-EI
Submitted for Filing: May 1, 2009

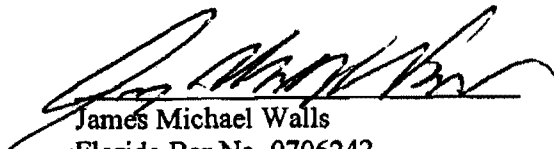
RECEIVED-FPSC
09 MAY -1 AM 11:15
COMMISSION
CLERK

**NOTICE OF FILING AFFIDAVITS IN SUPPORT OF PROGRESS ENERGY FLORIDA,
INC.'S SECOND REQUEST FOR CONFIDENTIAL CLASSIFICATION**

Notice is hereby given, through the undersigned counsel, on behalf of Progress Energy Florida, Inc. of filing the Affidavits of Masceo DesChamps and Peter Toomey in support of Progress Energy Florida's Second Request for Confidential Classification regarding PEF's responses to Staff's Second Request for Production of Documents No. 7 and Staff's First Set of Interrogatories Nos. 1-2.

Respectfully submitted this day of May 1, 2009.


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ECR 1
GCL 1

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 1st day of May, 2009.


Attorney

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vkaufman@kagmlaw.com

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

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

Docket No. 090079-EI

**AFFIDAVIT OF MASCEO DESCHAMPS IN SUPPORT OF PROGRESS ENERGY
FLORIDA'S SECOND REQUEST FOR CONFIDENTIAL CLASSIFICATION**

STATE OF NC

COUNTY OF Wake

BEFORE ME, the undersigned authority duly authorized to administer oaths, personally appeared Masceo DesChamps, who being first duly sworn, on oath deposes and says that:

1. My name is Masceo DesChamps. I am over the age of 18 years old and I have been authorized by Progress Energy Florida (hereinafter "PEF" or the "Company") to give this affidavit in the above-styled proceeding on PEF's behalf and in support of PEF's Second Request for Confidential Classification ("the Request"). The facts attested to in my affidavit are based upon my personal knowledge.

2. I am the Director of Compensation and Benefits for Progress Energy Service Company, LLC. As the Director of Compensation and Benefits, I am responsible, among other things, for providing leadership in the planning, evaluation, design, implementation, and communication of all compensation and benefits plans for employees, executives, retirees, and Board members. I direct the design and on-going evaluation of base, annual and long-term incentive compensation plans, merit and other salary increases, management of job evaluations, and wage and salary surveys.

3. In its Second Request for Confidential Classification, PEF is seeking confidential classification for certain information contained in its responses to Staff's First Set of

Interrogatories. An unredacted version of the information at issue is contained in confidential Appendix A to PEF's Request and the confidential portions thereof are outlined in PEF's Justification Matrix attached to the Request as Appendix C. PEF is requesting confidential classification of portions of these interrogatory responses because they contains proprietary confidential business information, the disclosure of which would compromise PEF's competitive business interests.

4. In response to Staff's First Interrogatories, PEF has provided certain confidential and proprietary information, such as the amount of salary and potential bonuses the Company is willing to pay its executives. That information is confidential and proprietary in formation, the disclosure of which could harm PEF's competitive business interests if disclosed to the public, or to other utilities with which PEF competes for qualified executives. This information could provide firms with which PEF is constantly competing for qualified employees with a competitive advantage in acquiring and retaining such employees, and could also give prospective employees an advantage in negotiating compensation packages, leading to increases in the overall amount of compensation paid to employees. This overall increase in the amount paid in compensation could adversely impact rates paid by PEF's ratepayers, or make the Company a less attractive investment to potential investors. In sum, the disclosure of this information could adversely affect the Company's competitive business interests, and for that reason is treated by PEF as proprietary and confidential.

5. With respect to the confidential information at issue, strict procedures are established and followed to maintain the confidentiality of that information; such procedures include, but are not limited to, restricting access to the information to only those persons who require it to assist the Company. PEF has treated and continues to treat the information contained in the schedules as confidential

6. This concludes my affidavit.

Dated this 30th day of April, 2009

Masceo S. DesChamps

(Signature)

Masceo Deschamps

Director of Compensation and Benefits, Progress Energy
Service Company

THE FOREGOING INSTRUMENT was sworn to and subscribed before me this 30th day of April, 2009 by Masceo DesChamps. He is personally known to me, or has produced his _____ driver's license, or his _____ as identification.

Brianna Martin

(Signature)

Brianna Martin

(Printed Name)

(AFFIX NOTARIAL SEAL)

NOTARY PUBLIC, STATE OF NC

11/12/2012

(Commission Expiration Date)

(Serial Number, If Any)