

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

10 JUL 22 PM 1:59

In re: Nuclear Power Plant Cost Recovery Clause

Docket No. 100009-EI
Submitted for Filing: July 22, 2010
COMMISSION CLERK

PROGRESS ENERGY FLORIDA'S SIXTEENTH REQUEST FOR CONFIDENTIAL CLASSIFICATION REGARDING AUDIT CONTROL NO. 10-01-001 WORKPAPERS

Progress Energy Florida, Inc. ("PEF" or the "Company"), pursuant to Sections 366.093, Florida Statutes, and Rule 25-22.006(3), Florida Administrative Code, requests confidential classification of portions of the Florida Public Service Commission Staff ("Staff") auditors' workpapers for *Audit Control No. 10-01-001* (the "workpapers"). These documents contain confidential contractual information, the disclosure of which would impair PEF's competitive business interests, as well as information pertaining to internal audit reports and controls. These documents meet the definition of proprietary confidential business information pursuant to section 366.093(3), Florida Statutes. The unredacted documents are being filed under seal with the Commission on a confidential basis to keep the competitive business information in those documents confidential.

CD's contain
Exhibit B (redacted)
Exhibit C (justification table)
06025-10
06024-10

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 Company, (ii)

because disclosure of the information would cause harm, (iii) either to the Company's customers

- COM
- APA 1 PEF
- ECR 3 + 3 CDs
- GCL 1 + 1 Act]
- RAD 1 + 1 CD
- SSC
- ADM
- OPC
- CLK 1 + 1 CD

- CLAIM OF CONFIDENTIALITY
- NOTICE OF INTENT
- REQUEST FOR CONFIDENTIALITY
- FILED BY OPC

DOCUMENT NUMBER-DATE

06022 JUL 22 2010

FOR DN 06023-10, WHICH IS IN LOCKED STORAGE. YOU MUST BE AUTHORIZED TO VIEW THIS DN. - CLK

PPSC-COMMISSION CLERK

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, and section 366.093(3)(b) provides that "[i]nternal auditing controls and reports of internal auditors" is proprietary confidential business information.

Portions of the aforementioned documents should be afforded confidential classification for the reasons set forth in the Affidavits of John Elnitsky, Sue Hardison, Raymond Phillips and Jon Franke, filed in support of PEF's Sixteenth Request for Confidential Classification, and for the following reasons. Specifically, portions of these responses contain confidential internal audit reports and controls, as well as contractual data, including pricing agreements, payment information and other confidential contractual terms, the release of which would impair PEF's competitive business interests. See Affidavits of Phillips, ¶ 4; Franke, ¶ 4; Elnitsky, ¶ 3; Hardison, ¶ 3.

The auditor's workpapers contain copies of internal audit reports and procedures, as well as descriptions of responsive actions taken in light of audit findings. Public disclosure of this information would potentially adversely affect the efficacy of the Company's internal auditing procedures by impacting the level of cooperation given to the Company's audit staff. For the audit procedures to be effective, it is imperative that audit staff is given total access and cooperation. Accordingly, PEF has kept confidential its internal audit procedures and reports,

only distributing such information to those within the Company who need it to perform their duties. Affidavit of Phillips, ¶¶ 4-5. Accordingly, this information should be afforded confidential treatment by the Commission. See § 366.093(3)(b), Fla. Stat.

Furthermore, also included in the auditor's workpapers information related to and gleaned from the Company's contracts for its nuclear projects. This information contains and includes sensitive business information, including pricing agreements, the disclosure of which would harm PEF's competitive business interests. PEF negotiates each of its contracts to obtain the most competitive terms available to benefit PEF and its customers. In order to successfully obtain such contracts, however, PEF must be able to assure the other parties to the contracts that the sensitive business information contained therein, such as pricing terms, will remain confidential. PEF has kept confidential and has not publicly disclosed the proprietary contract terms and provisions at issue here. Absent such measures, PEF would run the risk that sensitive business information regarding what it is willing to pay for certain goods and services, as well as what the Company is willing to accept as payment for certain goods and/or services, would be made to available to the public and, as a result, other potential suppliers, vendors, and/or purchasers of such services could change their position in future negotiations with PEF. Without PEF's measures to maintain the confidentiality of sensitive terms in these contracts, the Company's efforts to obtain competitive contracts would be undermined. Affidavits of Franke, ¶¶ 4-5; Elnitsky, ¶ 4; Hardison, ¶ 4. Accordingly, this information should be afforded confidential treatment by the Commission. See § 366.093(3)(d), Fla. Stat.

Furthermore, the workpapers also contain information reflecting the Company's internal strategies for evaluating projects and meeting deadlines. 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. See Affidavit of Elnitsky, ¶ 4. Accordingly, this information should be afforded confidential treatment by the Commission. See § 366.093(3)(e), Fla. Stat.

Upon receipt of this confidential information, strict procedures are established and followed to maintain the confidentiality of the information provided, including restricting access to only those persons who need the information to assist the Company. See Affidavits of Phillips, ¶ 5; Franke, ¶ 6; Elnitsky, ¶ 5; Hardison, ¶ 5. At no time since receiving the information in question has the Company publicly disclosed that information. See Affidavits of Phillips, ¶ 5; Franke, ¶ 6; Elnitsky, ¶ 5; Hardison, ¶ 5. The Company has treated and continues to treat the information at issue as confidential. See Affidavits of Phillips, ¶ 5; Franke, ¶ 6; Elnitsky, ¶ 5; Hardison, ¶ 5.

CONCLUSION

The competitive, confidential and internal audit 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, Florida Administrative Code, and 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 has requested 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 has requested 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 Staff's auditors' workpapers for *Audit Control No. 10-01-001* be granted confidential classification and treated accordingly.

Respectfully submitted,



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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 ~~21st~~ 25th day of July, 2010.



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Re: Acknowledgement of Confidential Filing in Docket No. 100009-EI

This will acknowledge receipt by the Florida Public Service Commission, Office of Commission Clerk, of a CONFIDENTIAL DOCUMENT filed on July 22, 2010, in the above-referenced docket.

Document Number 06023-10 has been assigned to this filing, which will be maintained in locked storage.

If you have any questions regarding this document, please contact Kim Peña, Records Management Assistant, at (850) 413-6393.