

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Fuel and purchased power  
cost recovery clause with  
generating performance incentive  
factor.

DOCKET NO. 030001-EI  
ORDER NO. PSC-03-1298-CFO-EI  
ISSUED: November 13, 2003

ORDER GRANTING CONFIDENTIAL CLASSIFICATION OF  
CERTAIN MATERIALS PROVIDED BY PROGRESS ENERGY FLORIDA, INC.  
PURSUANT TO AUDIT NO. 03-034-2-2 (DOCUMENT NOS. 03990-03,  
04012-03, 04157-03, 04144-03, AND 07931-03)

Progress Energy Florida, Inc. (Progress Energy) requests confidential classification of certain materials provided to us in connection with our staff's audit report and working papers obtained during the preparation of "Progress Energy Florida Fuel Adjustment Clause Audit for the Twelve Months Ended December 31, 2002," Audit No. 03-034-2-2 (Audit). Progress Energy makes this request pursuant to Section 366.093, Florida Statutes, and Rule 25-22.006, Florida Administrative Code. Progress Energy asserts that this information is intended to be, and is treated by Progress Energy and its affiliates as confidential information. Progress Energy affirms that this information has not been publicly disclosed. This request for confidential classification was filed on May 7, 2003, and subsequently corrected on May 28, 2003. The information for which Progress Energy seeks confidential treatment is filed with the Commission as Documents Nos. 03990-03, 04012-03, and 04157-03, 04144-03, and 07931-03.

Progress Energy requests that the following work papers be granted confidential classification:

DOCUMENT NUMBER-DATE

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FPSC-COMMISSION CLERK

Utility Identifying Page Number	Staff Work Paper Number	Sensitive Areas	Type of Information Classified Confidential
Documents 04012-03, 04157-03, 04144-03 and 07931-03			
WP 11	Audit Report Disclosure 2	4 marked fields	Calculation method for transportation allowance
Documents 03990-03 and 04144-03			
WP 1	WP 10-5A, page 3	marked field	Reports transportation Allowance
WP 2	WP 10-5B, page 2	2 marked fields	Reports transportation Allowance
WP 3	WP 10-5B, page 3	2 marked fields	Reports transportation Allowance
WP 4	WP 10-5B, page 4	3 marked fields	Reports transportation Allowance
WP 5	WP 10-5B, page 5	3 marked fields	Reports transportation Allowance
WP 6	WP 10-5B, page 6	2 marked fields	Reports transportation Allowance
WP 7	WP 10-5B, page 7	2 marked fields	Reports transportation Allowance
WP 8	WP 10-5B, page 8	marked field	Reports transportation Allowance
WP 9	WP 10-5B, page 9	2 marked fields	Reports transportation Allowance
WP 10	WP 10-5B, page 10	2 marked fields	Reports transportation Allowance
WP 12	WP 46-8	2 marked fields	Internal auditing controls or reports of internal auditor
Documents 03990-03 and 04144-03			

Utility Identifying Page Number	Staff Work Paper Number	Sensitive Areas	Type of Information Classified Confidential
WP 13	WP 46-7	3 marked fields	Internal auditing controls or reports of internal auditor
WP 14	WP 46-5	marked field	Internal auditing controls or reports of internal auditor
WP 15	WP 46-4	3 marked fields	Internal auditing controls or reports of internal auditor
WP 16	WP 46-3	marked field	Internal auditing controls or reports of internal auditor
WP 17	WP 46-2, page 2	marked field	Internal auditing controls or reports of internal auditor
WP 18	WP 46-2, Page 1	5 marked fields	Internal auditing controls or reports of internal auditor
WP 19	WP 46-1	3 marked fields	Internal auditing controls or reports of internal auditor
WP 20	WP 46	2 marked fields	Internal auditing controls or reports of internal auditor
WP 21	WP 46 Lead	4 marked fields	Internal auditing controls or reports of internal auditor
WP 22	WP 45-4, Page 2	4 marked fields	Internal auditing controls or reports of internal auditor
WP 23	WP 45-1	11 marked fields	Internal auditing controls or reports of internal auditor

Utility Identifying Page Number	Staff Work Paper Number	Sensitive Areas	Type of Information Classified Confidential
WP 24	WP 45	14 marked fields	Internal auditing controls or reports of internal auditor

Progress Energy claims that some of the information presented in the Audit Workpapers contains proprietary confidential business information. Progress Energy states that disclosure of this information would provide its affiliated coal supplier's, Progress Fuels Corporation (PFC), existing and potential coal suppliers with its waterborne transportation market proxy price directly, and would also provide these suppliers with the weighting factors for the market proxy's annual adjustment indices or the information needed to calculate these weighting factors. According to Progress Energy, this information would allow PFC's competitors to determine PFC's current and future market proxy prices indirectly. Progress Energy asserts that with the knowledge of PFC's waterborne transportation prices, coupled with publicly available delivered prices of waterborne coal, suppliers could determine the FOB mine price of the coal purchased by PFC, thereby giving them a significant competitive advantage in bidding for PFC's future coal purchases. Progress Energy states that this competitive advantage would allow the suppliers to avoid bidding their lowest price and instead simply undercut PFC's existing price. According to Progress Energy, the result would be higher fuel costs than if PFC's suppliers were not forearmed with this sensitive and competitively valuable information.

Progress Energy further states that information in the Audit Workpapers provides sensitive information regarding the previously undisclosed version of the published indices used by PFC and Progress Energy to calculate the annual adjustments to the waterborne transportation market proxy. According to Progress Energy, this information would enable PFC's existing and potential coal suppliers to calculate the weighting factors for the market proxy's annual adjustment indices, which in turn would allow them to determine PFC's current and future market proxy prices.

Progress Energy asserts that, pursuant to Section 366.093, Florida Statutes, such information is entitled to confidential classification and is exempt from the mandatory disclosure provisions of the public records law. Progress Energy asserts that the sensitive contractual and competitive information, if disclosed, would impair the efforts of the public utility or its affiliates to contract for goods or services on favorable terms. Section 366.093(3)(d), Florida Statutes. Progress Energy also asserts that the information for which it seeks confidential classification relates "to competitive interests, the disclosure of which would impair the competitive business of the provider of the information." Section 366.093(3)(e), Florida Statutes.

#### CONCLUSION

Upon review, it appears that the information discussed above is proprietary confidential business information and should be granted confidential treatment to avoid harm to the company and its ratepayers. Based on the foregoing, Progress Energy's request for confidential treatment of Documents Nos. 03990-03, 04012-03, 04157-03, 04144-03, and 07931-03 is granted.

#### DECLASSIFICATION

Progress Energy also requests that the confidential information be returned to it "in accordance with Section 366.093(4) of the Florida Statutes as soon as the information is no longer necessary for the Commission to conduct its business." However, these types of audit work papers are retained by the Commission for 25 years. Section 366.093(4), Florida Statutes, provides that "any finding by the Commission that records contain proprietary confidential business information is effective for a period not to exceed 18 months." Progress Energy seeks an 18 month time period in its request. Therefore, this information shall be granted confidential classification for a period of 18 months from the date of issuance of this Order. If Progress Energy wishes continued protection for these documents, it may petition for continued protection prior to expiration of the declassification date.

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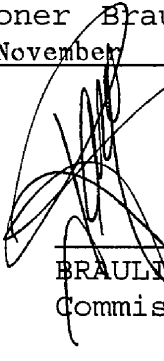
It is therefore

ORDERED by Commissioner Braulio L. Baez, as Prehearing Officer, that the information described in Progress Energy Florida, Inc.'s request for confidential treatment of certain materials in the audit report and working papers obtained during the preparation of Progress Energy Florida Fuel Adjustment Clause Audit for the Twelve Months ending December 31, 2002, Audit No. 03-034-2-2, Documents Nos. 03990-03, 04012-03, 04157-03, 04144-03, and 07931-03 is granted confidential classification. It is further

ORDERED that the information described within the body of this Order shall be granted confidential treatment for 18 months from the date of this Order. It is further

ORDERED that this Order will be the only notification by the Commission to the parties of the date of declassification of the materials discussed herein.

By ORDER of Commissioner Braulio L. Baez, as Prehearing Officer, this 13th day of November, 2003.

  
for Commissioner Braulio L. BAEZ

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BRAULIO L. BAEZ  
Commissioner and Prehearing Officer

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NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that

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is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

Mediation may be available on a case-by-case basis. If mediation is conducted, it does not affect a substantially interested person's right to a hearing.

Any party adversely affected by this order, which is preliminary, procedural or intermediate in nature, may request: (1) reconsideration within 10 days pursuant to Rule 25-22.0376, Florida Administrative Code; or (2) judicial review by the Florida Supreme Court, in the case of an electric, gas or telephone utility, or the First District Court of Appeal, in the case of a water or wastewater utility. A motion for reconsideration shall be filed with the Director, Division of the Commission Clerk and Administrative Services, in the form prescribed by Rule 25-22.060, Florida Administrative Code. Judicial review of a preliminary, procedural or intermediate ruling or order is available if review of the final action will not provide an adequate remedy. Such review may be requested from the appropriate court, as described above, pursuant to Rule 9.100, Florida Rules of Appellate Procedure.