

BEFORE THE PUBLIC SERVICE COMMISSION

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

DOCKET NO. 050001-EI  
ORDER NO. PSC-05-1084-PCO-EI  
ISSUED: November 2, 2005

ORDER GRANTING MOTION FOR TEMPORARY PROTECTIVE ORDER

On October 18, 2005, Progress Energy Florida, Inc. (PEF) filed a Motion for Temporary Protective Order, pursuant to Rule 25-22.006(6), Florida Administrative Code, covering certain documents sought in discovery by the Office of Public Counsel (OPC). No party filed a response to PEF's motion.

PEF states that its response to Request No. 13 in OPC's Fifth Request for Production of Documents contains proprietary confidential business information. PEF asserts that the response includes fuel contracts and related documents that include contractual data, the disclosure of which would impair the efforts of the company or its affiliates to negotiate fuel supply contracts on favorable terms. In addition, PEF contends that disclosure of this information would adversely impact its competitive business interests. PEF asserts that it is seeking protection of the documents as provided in Section 366.093(2), Florida Statutes, and Rule 25-22.006(6), Florida Administrative Code.

Rule 25-22.006 (6)(c), Florida Administrative Code states:

When a utility or other person agrees to allow Public Counsel to inspect or take possession of utility information for the purpose of determining what information is to be used in a proceeding before the Commission, the utility may request a temporary protective order exempting the information from section 119.07(1), F.S. If the information is to be used in a proceeding before the Commission, then the utility must file a specific request for a protective order under paragraph (a) above. If the information is not to be used in a proceeding before the Commission, then Public Counsel shall return the information to the utility in accordance with the record retention requirements of the Department of State.

Upon consideration, PEF's Motion for Temporary Protective Order is granted. I find that PEF has demonstrated that the material requested by OPC appears to be proprietary confidential business information. Accordingly, this information will be protected from disclosure pursuant to Rule 25-22.006(6), Florida Administrative Code. As provided in Order No. PSC-05-0281-PCO-EI, issued March 15, 2005, the Order Establishing Procedure for this docket, OPC is required to provide PEF and all other parties seven days notice of its intent to use any confidential information at the hearing.

DOCUMENT NUMBER-DATE


10625 NOV-2 05

FPSC-COMMISSION CLERK

Based on the foregoing, it is

ORDERED by Commissioner Rudolph "Rudy" Bradley, as Prehearing Officer, that the Motion for Temporary Protective Order filed by Progress Energy Florida, Inc. is granted.

By ORDER of Commissioner Rudolph "Rudy" Bradley, as Prehearing Officer, this 2nd day of November, 2005.

  
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RUDOLPH "RUDY" BRADLEY  
Commissioner and Prehearing Officer

( S E A L )

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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 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.