

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Environmental cost recovery clause.

DOCKET NO. 090007-EI  
ORDER NO. PSC-09-0779-CFO-EI  
ISSUED: November 18, 2009

ORDER GRANTING PROGRESS ENERGY FLORIDA'S FIRST REQUEST FOR  
EXTENSION OF CONFIDENTIAL CLASSIFICATION GRANTED BY ORDER NO. PSC-  
07-0676-CFO-EI IN DOCKET NO. 070001-EI (DOCUMENT NOS. 01447-09 AND 01449-09)

History

This Order addresses the continuation of confidential treatment for portions of documents submitted by Progress Energy Florida, Inc. (PEF) as part of its Petition for Approval of Integrated Clean Air Compliance Plan and Associated Crystal River Clean Air Contracts in Docket Number 070007-EI. These documents, as detailed in Attachment A, consist of portions of the prefiled direct testimony of Samuel Waters and Exhibits SSW-1 through SSW-5 (Document No. 01447-09) and portions of the prefiled direct testimony of Thomas Cornell and Exhibits TC-1 through TC-8 (Document No. 01449-09). By Order No. PSC-07-0676-CFO-EI, the Commission initially granted confidential classification for these documents on August 21, 2007. Pursuant to Section 366.093, Florida Statutes (F.S.), and Rule 25-22.006, Florida Administrative Code (F.A.C.), on February 20, 2009 PEF requested that confidential treatment be extended for the information contained in both documents. The documents were originally granted confidentiality for 18 months, and PEF now requests that confidentiality be extended for an additional 18 months. In its request, PEF states that the period of confidential classification granted by Order No. PSC-07-0676-CFO-EI would soon expire and that portions of the information covered by that Order warrant continued treatment as proprietary and confidential business information within the meaning of Section 366.093, F.S. The request was filed in Docket No. 090001-EI.

Request for Extended Confidential Classification

Section 366.093(1), F.S., 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]." Section 366.093(3), F.S., defines proprietary confidential business information as information that is intended to be and is treated by the company as private, in that disclosure of the information would cause harm to the company's ratepayers or business operations, and has not been voluntarily disclosed to the public. Section 366.093(3), F.S., provides that proprietary confidential business information includes, but is not limited to "[i]nformation 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" (subsection d); and "[i]nformation relating to competitive interests, the disclosure of which would impair the competitive business of the provider of the information" (subsection e).

DOCUMENT NUMBER-DATE

11442 NOV 18 8

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PEF contends that portions of the prefiled direct testimony and exhibits of Samuel Waters and Thomas Cornell fall within these categories and thus constitute proprietary confidential business information entitled to protection under Section 366.093, F.S., and Rule 25-22.006, F.A.C. PEF states that the redacted information described in the prefiled direct testimony and exhibits provide confidential contractual data regarding work authorizations for pollution control projects at its Crystal River Plant. PEF asserts that this information concerns in-service dates, emission projections, and projected allowance purchases, the disclosure of which would impair the utility's or its affiliate's ability to contract for goods or services on favorable terms. PEF further asserts that this information relates to the competitive interests of PEF and its suppliers, the disclosure of which would impair their competitive businesses. In addition, PEF states that the material is intended to be and is treated by PEF as private and has not been disclosed. As a result, PEF requests that the information identified in Order No. PSC-07-0676-CFO-EI, as specifically described in the table in Attachment A, be accorded confidential classification for an additional 18-month period.

### Ruling

Upon review, it appears that the identified portions of the prefiled direct testimony and exhibits of Samuel Waters and Thomas Cornell satisfy the criteria set forth in Section 366.093(3), F.S., for classification as proprietary confidential business information and therefore shall continue to be treated as confidential. The information constitutes “[i]nformation 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,” or “[i]nformation relating to competitive interests, the disclosure of which would impair the competitive business of the provider of the information.” Moreover, none of the documentation discussed herein contains any information regarding the compensation of PEF executives. Thus, this information, as detailed in Attachment A, shall be granted continued confidential classification.

Pursuant to Section 366.093(4), F.S., the information for which confidential classification is granted herein shall remain protected from disclosure for a period of 18 months from the date of issuance of this order. At the conclusion of the 18 month period, the confidential information will no longer be exempt from Section 119.07(1), F.S., unless PEF or another affected person shows, and the Commission finds, that the records continue to contain proprietary confidential business information.

Based on the foregoing, it is

ORDERED by Commissioner Nathan A. Skop, as Prehearing Officer, that Progress Energy Florida's request for extended confidential classification of Document Numbers 01447-09 and 01449-09, as fully described in Attachment A, is granted. It is further

ORDERED that the information in Document Numbers 01447-09 and 01449-09 for which confidential classification has been granted shall remain protected from disclosure for a period of 18 months from the date of issuance of this Order. It is further

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

By ORDER of Commissioner Nathan A. Skop, as Prehearing Officer, this 18th day of November, 2009.



NATHAN A. SKOP  
Commissioner and Prehearing Officer

( S E A L )

MCB

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 Office of Commission Clerk, in the form prescribed by Rule 25-22.0376, 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.

ATTACHMENT A

DOCUMENT	PAGE(S)	Line No(s)
Pre-filed Direct Testimony of Samuel S. Waters	6	14
Exhibit No. (SSW-1) - Integrated Clean Air Compliance Plan	5	1,2,3
	11	1,2
	11	3,4,5
	12	1-10
	12	11,12
	18	1-5
	19	1
	20	1-11
	21	1 (Table 1)
	22	1-4 (including Figure 1)
	23	1-7 (including Figure 2)
	24	1-5 (including Figure 3)
	35	1,2
	36	1-14
	37	1-12
	38	1-25
	39	1-8
	40	1-27
	41	1-17
	42	1-20
	44	1-18
	45	1-5
	46	1-2
	47	1-11
	48	1-15
Exhibit No. (SSW-2) – Summary Alternative Compliance Plans – 2006	All	All
Exhibit No. (SSW-3) - Summary of Alternative Compliance Plans – 2007	All	All
Pre-filed Direct Testimony of Thomas Cornell	5	5,7,9,11,12,13, 21,23,24
	6	1,2,5,6,8,9,10, 11,16
	11	7
	12	23

	14	11,16,17
	15	12
	18	11
	19	11
	21	2
Composite Exhibit No. (TC-3) - Letter of Intent (LOI) to enter an Engineering, Procurement and Construction contract with Environmental Projects Crystal River ("EPCR"), along with four amendments to the LOI.	ALL	ALL
Composite Exhibit No. (TC-4) - Contract with The Babcock and Wilcox Company (and associated work authorizations) for design, engineering, equipment, and other work associated with the Crystal River SCR & FGD projects	ALL	ALL
Composite Exhibit No. (TC-5) - Contract with Worley Parsons (and associated work authorizations) for preliminary design, engineering and other work associated with the Crystal River SCR and FGD projects.	ALL	ALL
Exhibit No. (TC-6) - Contract No. 298909 Between Progress Energy Florida, Inc. and The Stebbins Engineering and Manufacturing Company for Crystal River Scrubber Towers units 4 &5	ALL	ALL
Exhibit No. (TC-7) - Purchase Order Agreement for SCR Catalyst for the Crystal River Power Station Units 4 and 5 - Progress Energy Florida, Inc.	ALL	ALL