

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for
determination of need for the
Osprey Energy Center in Polk
County by Seminole Electric
Cooperative and Calpine
Construction Finance Company,
L.P.

DOCKET NO. 001748-EC
ORDER NO. PSC-01-0366-CFO-EC
ISSUED: February 12, 2001

ORDER GRANTING IN PART AND DENYING IN PART
REQUEST FOR CONFIDENTIAL CLASSIFICATION AND
MOTION FOR PERMANENT PROTECTIVE ORDER (DOCUMENT NO. 00277-01)

On January 8, 2001, Seminole Electric Cooperative, Inc. (Seminole), with the agreement of Calpine Construction Finance, L.P. and Calpine Energy Services, L.P. (collectively, Calpine) filed its Request for Confidential Classification and Motion for Permanent Protective Order regarding the Power Purchase Agreement (PPA) executed by Seminole and Calpine on December 14, 2000. The information is found in Document No. 00277-01. Seminole asserts that part of Document No. 00277-01 contains proprietary information, which, if disclosed, would impair Seminole's and Calpine's competitive interests and ability to negotiate similar terms in future contract negotiations.

I. Request for Confidentiality

Pursuant to Section 366.093, Florida Statutes, a utility requesting confidential classification must demonstrate that the information is proprietary confidential business information.

Proprietary confidential business information means information, regardless of form or characteristics, which is owned or controlled by the person or company, is intended to be and is treated by the person or company as private in that the disclosure of the information would cause harm to the ratepayers or the person's or company's business operations, and has not been disclosed unless disclosed pursuant to a statutory provision, an order of a court or administrative body, or private agreement that

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provides that the information will not be released to the public.

Section 366.093(3), Florida Statutes.

Seminole requests that portions of the PPA be held confidential under Section 366.093, Florida Statutes. The information which Seminole seeks to keep confidential contains negotiated and sensitive terms of the parties' PPA. Seminole alleges that disclosing these terms would impair both parties' ability to negotiate similar terms in the future.

- Page 2; redacted information on lines 17, 29, and 37
- Page 3, redacted information on line 38
- Page 5; line 5, redacted information on line 18, and lines 19-20
- Page 8, lines 6-9
- Page 9, lines 4-7
- Page 12; lines 8-10, lines 19-37
- Page 13; lines 1-20, lines 22-41
- Page 14; lines 1-13, lines 32-38
- Page 15; lines 3-23, lines 35-41
- Page 16; lines 1-5, lines 7-40
- Page 17, lines 1-38
- Page 18; lines 5-7, lines 9-15, redacted information on line 16, lines 17-24, redacted information on lines 26 and 28-29, lines 30-40
- Page 19; lines 1-4, lines 6-28, lines 30-31
- Page 20; redacted information on lines 9 and 15-16, lines 29-34, redacted information on line 35, lines 38-41
- Page 21; lines 1-34, lines 39-42
- Page 22; lines 1-6, lines 10-35
- Page 23; redacted information on lines 9, 22-24, and 25-27
- Page 24; lines 3-11, lines 14-31, lines 35-40
- Page 25; lines 1-10, redacted information on line 12, lines 14-33, line 38
- Page 26, lines 1-35
- Page 27, line 1-17
- Page 29, lines 36-40
- Page 30; line 1, lines 18-25
- Page 31; lines 10-12, lines 24-28, lines 36-39
- Page 32; lines 1-3

- Page 34, lines 8-10
- Page 35, lines 14-39
- Page 36; lines 1-5, redacted information on line 13, lines 18-21
- Page 37, redacted information on lines 19 and 21
- Page 38; lines 15-17, lines 35-37
- Page 39, lines 12-33
- Page 46, lines 2-38
- Page 47, lines 1-38
- Page 48, lines 1-26
- Page 49, redacted information on lines 6-10
- Page 50, redacted information on lines 3-4

Upon review, it appears that the information contained in the above-referenced pages/lines is proprietary confidential business information, disclosure of which would cause harm to the ratepayers or the companies' business operations. This information shall remain confidential for a period of eighteen (18) months, at which time Seminole can renew its request for confidentiality.

However, the remainder of Seminole's request is denied. As discussed in Table 1 below, much of this information is not specific enough in nature to impair the Parties' competitive interests. As discussed in Table 1, the remaining information has already been made public.

Table 1

Page	Line(s)	Reason for Denying Request
8	3-4	This item is the definition of the term "fuel transportation price" which is used in the PPA. The definition is general in nature is not specific enough to affect competitive interests. Petitioner has not demonstrated how disclosure of this information would cause harm to the Parties.

Page	Line(s)	Reason for Denying Request
9	18-22	This information contains the definitions of four terms used in the PPA. The definitions are general in nature and the information is not specific enough to affect competitive interests. Petitioner has not demonstrated how disclosure of this information would cause harm to the Parties.
10	10	This information contains a definition used in the PPA. The definition is general in nature and the information is not specific enough to affect competitive interests. Petitioner has not demonstrated how disclosure of this information would cause harm to the Parties.
11	12	This information contains a definition used in the PPA. The definition is general in nature and the information is not specific enough to affect competitive interests. Petitioner has not demonstrated how disclosure of this information would cause harm to the Parties.
14	17-18	This information was disclosed by Witnesses Woodbury and Eves at deposition. The information is already public.
14	23-30	This information was disclosed by Witnesses Woodbury and Eves at deposition. The information is already public.
19	30-31	This item is not specific enough in nature to impact competitive interests. Petitioner has not demonstrated how disclosure of this information would cause harm to the Parties.
23	28-35	These are definitions commonly used in purchased power agreements and tariffs. These definitions are not specific enough in nature to impact competitive interest. Petitioner has not demonstrated how disclosure of this information would cause harm to the Parties.

Page	Line(s)	Reason for Denying Request
24	1-2	This item is not specific enough in nature to impact competitive interest. Petitioner has not demonstrated how disclosure of this information would cause harm to the Parties.

II. Protective Order

Rules 25-22.006(6)(a) and (b), Florida Administrative Code, authorize the Commission to grant protective orders in accordance with Rule 1.280, Florida Rules of Civil Procedure. Rule 25-22.006(6)(a) provides:

In any formal proceeding before the Commission, any utility or other person may request a protective order protecting proprietary confidential business information from discovery. Upon a showing by a utility or other person and a finding by the Commission that the material is entitled to protection, the Commission shall enter a protective order limiting discovery in the manner provided by Rule 1.280, Florida Rules of Civil Procedure. The protective order shall specify how the confidential information is to be handled during the course of the proceeding and prescribe measures for protecting the information from disclosure outside of the proceeding.

Seminole maintains that disclosure of certain information in the PPA would impair the competitive business interests of Seminole in negotiating contracts for needed power supply resources for its member cooperatives and the member-consumers served by Seminole's members. In addition, Seminole states that disclosure would likewise impair Calpine's competitive interests in negotiating power sales agreements with other utility purchasers.

Accordingly, the parties seek that a Permanent Protective Order be issued prohibiting the disclosure of the subject information to anyone other than the Commissioners and the Commission Staff assigned to this proceeding, and also protecting the subject information from disclosure or use in the hearing other

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than as provided for in Order Establishing Procedure in this docket (Order No. PSC-00-2413-PCO-EC, issued December 18, 2000).

Having reviewed the Motion, it appears that Rule 25-22.006(6), Florida Administrative Code, has been complied with to the extent it refers to the information granted confidential classification discussed above. Therefore, the Motion for Permanent Protective Order is granted as to the information held to be confidential, and shall remain in effect for a period of eighteen months. The requirements set forth in Order PSC-00-2413-PCO-EC are appropriate, which provided "[a]ny information provided pursuant to the discovery request for which proprietary confidential business information status is requested shall be treated as confidential by the Commission and the parties." As prescribed by Section 366.093(2), Florida Statutes, the subject information shall be returned to Seminole if not entered into the record.

Based on the foregoing, it is

ORDERED by Commissioner Lila A. Jaber, as Prehearing Officer, that the Request for Confidential Classification, for information contained in Document No. 00277-01, is granted in part and denied in part as discussed in the body of this order. It is further

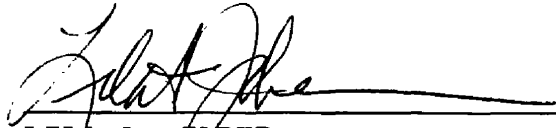
ORDERED that the Motion for Permanent Protective Order, for information granted confidential classification is hereby granted, for a period of eighteen (18) months from the date of issuance of this Order. It is further

ORDERED that pursuant to Rule 25-22.006, Florida Administrative Code, the information granted confidential classification by this Order shall be treated as confidential for a period of eighteen (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 concerning the expiration of the confidentiality time period.

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By ORDER of Commissioner Lila A. Jaber as Prehearing Officer,
this 12th day of February, 2001.



LILA A. JABER
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, if issued by a Prehearing Officer; (2) reconsideration within 15 days pursuant to Rule 25-22.060, Florida Administrative Code, if issued by the Commission; or (3) 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

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the case of a water or wastewater utility. A motion for reconsideration shall be filed with the Director, Division of Records and Reporting, 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.