

BEFORE THE PUBLIC SERVICE COMMISSION

In re: Petition for approval of storm cost recovery clause for recovery of extraordinary expenditures related to Hurricanes Charley, Frances, Jeanne, and Ivan, by Progress Energy Florida, Inc.

DOCKET NO. 041272-EI
ORDER NO. PSC-05-0345-CFO-EI
ISSUED: March 30, 2005

ORDER GRANTING IN PART AND DENYING IN PART
REQUEST FOR CONFIDENTIAL CLASSIFICATION
(DOCUMENT NO. 01814-05)

On February 22, 2005, pursuant to Section 366.093, Florida Statutes, and Rule 25-22.006, Florida Administrative Code, Progress Energy Florida, Inc. (PEF) filed a request for confidential classification of portions of the deposition exhibits of PEF witnesses Mark Vincent Wimberly and Javier Portuondo (Document No. 01814-05).

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].” Section 366.093(3), Florida Statutes, 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), Florida Statutes, provides that proprietary confidential business information includes, but is not limited to “[i]nformation relating to competitive interests, the disclosure of which would impair the competitive business of the provider of the information” (subsection e).

PEF contends that portions of the deposition exhibits of Mr. Wimberly and Mr. Portuondo fall within these categories and thus constitutes proprietary confidential business information entitled to protection under Section 366.093, Florida Statutes, and Rule 25-22.006, Florida Administrative Code. PEF contends that this information contains proprietary confidential business information that is intended to be and is treated as private and that has not been voluntarily disclosed to the public. PEF states that this information includes PEF’s projected and estimated business budgets and budget variance projections. According to PEF, disclosure of this information would impair PEF’s competitive business interests. PEF states that if its suppliers or competitors were made aware of PEF’s estimated budgets or budget variances, they may adjust their behavior in the market place with respect to activities such as pricing and the acquisition and provision of goods, materials, and services. PEF further states that this information contains PEF’s Power Operations Group Business Plan for 2004-2008. According to PEF, this information would impair PEF’s competitive business interests if it were disclosed.

The information for which PEF requests confidential classification and the ruling on each item is set forth in the following table. For those items granted confidential classification, I find

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it confidential for the reasons identified by the company. The request for confidential treatment of the information disclosed on the Securities and Exchange Commission (SEC) Form 10-K is denied as shown below because the information is already public.

DOCUMENTS	PAGE/LINE	RULING
Mark Vincent Wimberly Deposition Exhibit 1	<p>PEF-SR-01752: Tables 1, 2 and 3, all numbers under subheadings YTD Budget, YTD Actual, Variance Budget vs. Actual (\$) and Variance Budget vs Actual (%)</p> <p>PEF-SR-01478: Tables 1, 2 and 3, all numbers under subheadings YTD Budget, YTD Actual, Variance Budget vs. Actual (\$) and Variance Budget vs Actual (%)</p>	Grant
Mark Vincent Wimberly Deposition Exhibit 3	<p>PEF-SR-01114: All numbers under subheading Current Month and all information given in text boxes Key Points:</p> <p>PEF-SR-01115: All numbers under subheading Current Month, Note 1, and all information given in text boxes Key Points:</p> <p>PEF-SR-01116 All numbers under subheading Current Month and all information given in text boxes Key Points:</p> <p>PEF-SR-01117: All numbers under subheading Year-to-Date and all information given in text boxes Key Points:</p>	<p>Deny for the December 2003 Column on Bates Stamp Page Nos. PEF-SR-01142 and PEF-SR-01143. This information contained on the Balance Sheets has already been publicly disclosed on SEC Form 10-K.</p> <p>Grant for the remainder of information in Mr. Wimberly's Deposition Exhibit 3.</p>

DOCUMENTS	PAGE/LINE	RULING
	<p>PEF-SR-01118: All information under subheading Progress Energy Florida legal Entity-O&M Budget Target Summary</p> <p>PEF-SR-01119: entire page</p> <p>PEF-SR-01120: All information following date and subheading under title Capital Expenditures</p> <p>PEF-SR-01121: All information under subheading Reconciliation between Capital CMR and Cash Flow 2004</p> <p>PEF-SR-01123: All information following title Energy Delivery-Florida</p> <p>PEF-SR-01124: All information following date under subheading Cost Status (as of October)</p> <p>PEF-SR-01125: All information following subheading Cost Status (as of October)</p> <p>PEF-SR-01128: All information following title Property and Plant Accounting</p> <p>PEF-SR-01129: All information following subheading Cost Status</p>	

DOCUMENTS	PAGE/LINE	RULING
	PEF-SR-01131: Entire page except header and footer	
	PEF-SR-01133: All information following title Progress Energy Florida – Sarbanes Oxley Status 2004	
	PEF-SR-01134-01136: Entire pages except headers and footers	
	PEF-SR-01138-01140: All information following subheading Income Statement Variance Analysis	
	PEF-SR-01142-01143: All information following date under subheading Balance Sheets	
	PEF-SR-01144-01145: All information following date under heading Balance Sheet Variance Analysis	
	PEF-SR-01146-001147: Entire pages except headers and footers	
	PEF-SR-01148-01149: All information following date under subheading Cash Flow Variance Analysis – Month	
	PEF-SR-01150-01153: Entire pages except headers and footers	

DOCUMENTS	PAGE/LINE	RULING
	<p>PEF-SR-01154-01155: All information following subheading Wholesale Revenue Analysis</p> <p>PEF-SR-01156-01157: Entire pages following subheadings O&M Base recoverable Variance Analysis</p>	
Mark Vincent Wimberly Deposition Exhibit 4	PEF-SR-01836: Entire page following header Progress Energy	Grant
Mark Vincent Wimberly Deposition Exhibit 5	PEF-SR-1260: Entire page except header	Grant
Mark Vincent Wimberly Deposition Exhibit 7	PEF-SR-00331: Entire page except header	Grant
Javier J. Portuondo Deposition Exhibit 1	<p>PEF-SR-01752: Tables 1, 2 and 3, all numbers under subheadings YTD Budget, YTD Actual, Variance Budget vs. Actual (\$) and Variance Budget vs Actual (%)</p> <p>PEF-SR-01478: Tables 1, 2 and 3, all numbers under subheadings YTD Budget, YTD Actual, Variance Budget vs. Actual (\$) and Variance Budget vs Actual (%)</p>	Grant
Javier J. Portuondo Deposition Exhibit 3	<p>PEF-SR-01114: All numbers under subheading Current Month and all information given in text boxes Key Points:</p> <p>PEF-SR-01115: All numbers under subheading Current Month, Note 1, and all information given in text</p>	<p>Deny for the December 2003 Column on Bates Stamp Page Nos. PEF-SR-01142 and PEF-SR-01143. This information contained on the Balance Sheets has already been publicly disclosed on SEC Form 10-K.</p> <p>Grant for the remainder of information in Mr. Portuondo's</p>

DOCUMENTS	PAGE/LINE	RULING
	<p>boxes Key Points:</p> <p>PEF-SR-01116 All numbers under subheading Current Month and all information given in text boxes Key Points:</p> <p>PEF-SR-01117: All numbers under subheading Year-to-Date and all information given in text boxes Key Points:</p> <p>PEF-SR-01118: All information under subheading Progress Energy Florida legal Entity-O&M Budget Target Summary</p> <p>PEF-SR-01119: entire page</p> <p>PEF-SR-01120: All information following date and subheading under title Capital Expenditures</p> <p>PEF-SR-01121: All information under subheading Reconciliation between Capital CMR and Cash Flow 2004</p> <p>PEF-SR-01123: All information following title Energy Delivery-Florida</p> <p>PEF-SR-01124: All information following date under subheading Cost Status (as of October)</p>	Deposition Exhibit 3.

DOCUMENTS	PAGE/LINE	RULING
	PEF-SR-01125: All information following subheading Cost Status (as of October)	
	PEF-SR-01128: All information following title Property and Plant Accounting	
	PEF-SR-01129: All information following subheading Cost Status	
	PEF-SR-01131: Entire page except header and footer	
	PEF-SR-01133: All information following title Progress Energy Florida – Sarbanes Oxley Status 2004	
	PEF-SR-01134-01136: Entire pages except headers and footers	
	PEF-SR-01138-01140: All information following subheading Income Statement Variance Analysis	
	PEF-SR-01142-01143: All information following date under subheading Balance Sheets	
	PEF-SR-01144-01145: All information following date under heading Balance Sheet Variance Analysis	

DOCUMENTS	PAGE/LINE	RULING
	<p>PEF-SR-01146-001147: Entire pages except headers and footers</p> <p>PEF-SR-01148-01149: All information following date under subheading Cash Flow Variance Analysis – Month</p> <p>PEF-SR-01150-01153: Entire pages except headers and footers</p> <p>PEF-SR-01154-01155: All information following subheading Wholesale Revenue Analysis</p> <p>PEF-SR-01156-01157: Entire pages following subheadings O&M Base recoverable Variance Analysis</p>	
Javier J. Portuondo Deposition Exhibit 4	PEF-SR-01836: Entire page following header Progress Energy	Grant
Javier J. Portuondo Deposition Exhibit 5	PEF-SR-01260: Entire page except header	Grant
Javier J. Portuondo Deposition Exhibit 6	PEF-SR-00331: Entire page except header	Grant

Pursuant to Section 366.093(4), Florida Statutes, 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), Florida Statutes, unless PEF or another affected person shows, and the Commission finds, that the records continue to contain proprietary confidential business information.

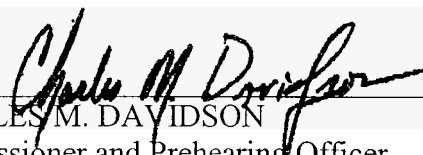
Based on the foregoing, it is

ORDERED by Commissioner Charles M. Davidson, as Prehearing Officer, that Progress Energy Florida, Inc.'s Request for Confidential Classification of Document No. 01814-05 is granted in part and denied in part, as set forth in the body of this order. It is further

ORDERED that the information in Document No. 01814-05 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

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 Charles M. Davidson, as Prehearing Officer, this 30th day of March, 2005


CHARLES M. DAVIDSON
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 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 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.