

BEFORE THE PUBLIC SERVICE COMMISSION

In re: Petition for approval of long-term fuel supply and transportation contracts for Hines Unit 4 and additional system supply and transportation, by Progress Energy Florida, Inc.

DOCKET NO. 041414-EI
ORDER NO. PSC-05-0458-CFO-EI
ISSUED: April 28, 2005

ORDER GRANTING FIFTH REQUEST FOR CONFIDENTIAL CLASSIFICATION
(DOCUMENT NO. 03693-05)

On April 15, 2005, pursuant to Section 366.093, Florida Statutes, and Rule 25-22.006, Florida Administrative Code, Progress Energy Florida, Inc. (PEF) filed its fifth request for confidential classification, requesting confidentiality of its responses to Staff Interrogatory Nos. 149-151, 154, and 162 from Staff's Fifth Set of Interrogatories to Progress Energy Florida Inc. (Nos. 148-164) (Document No. 03693-05).

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 "[t]rade secrets" (subsection a); "[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).

PEF contends that its responses to Staff Interrogatory Nos. 149-151, 154, and 162 from Staff's Fifth Set of Interrogatories to Progress Energy Florida Inc. (Nos. 148-164) fall within these categories and thus constitute proprietary confidential business information entitled to protection under Section 366.093, Florida Statutes, and Rule 25-22.006, Florida Administrative Code.

DOCUMENT NUMBER-DATE

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PEF requests that the following information be granted confidential classification:

DOCUMENTS	PAGE/LINE	JUSTIFICATION
Interrogatory Number 149	All tables, all charts, and all numbers, excluding headers.	<p>§366.093(3)(e), Fla. Stat.</p> <p>The information in question relates to PEF's competitive interests, the disclosure of which would impair PEF's competitive business interests.</p> <p>§366.09(3)(d), Fla. Stat.</p> <p>The information in question concerns contractual data, the disclosure of which would impair PEF's efforts to contract for goods or services on favorable terms.</p>
Interrogatory Number 150	All tables, all charts, and all numbers, excluding headers.	<p>§366.093(3)(e), Fla. Stat.</p> <p>The information in question relates to PEF's competitive interests, the disclosure of which would impair PEF's competitive business interests.</p> <p>§366.09(3)(d), Fla. Stat.</p> <p>The information in question concerns contractual data, the disclosure of which would impair PEF's efforts to contract for goods or services on favorable terms.</p>
Interrogatory Number 151	<p>All the words after "(FGT) resulted," and before "refer to the assumptions."</p> <p>The word after "Cypress and," and before "alternatives."</p> <p>The word after "Cypress and,"</p>	<p>§366.093(3)(e), Fla. Stat.</p> <p>The information in question relates to PEF's competitive interests, the disclosure of which would impair PEF's competitive business interests.</p>

	<p>and before "alternatives."</p> <p>The words after "percentages and," and before "for Cypress."</p> <p>The word after "rates for the," and before "alternative."</p> <p>The word after "(Cypress," and before "and."</p> <p>The word after "and," and before "This date assumes."</p> <p>All tables, all charts, and all numbers, excluding headers.</p> <p>The words after "SNG and FGT," and before "variable charge rates."</p> <p>After "regarding the," and before "alternative."</p> <p>In footnote 1, the numbers after the words "rate of," and before "plus estimated."</p> <p>In footnote 2, the numbers after the words "rate of," and before "plus estimated."</p> <p>In footnote 3, the word after "derived given," and before "requirement for."</p> <p>In footnote 3, the number after "requirement for," and before "of annual."</p> <p>In footnote 3, the words after "pipeline transportation," and</p>	<p>§366.09(3)(d), Fla. Stat.</p> <p>The information in question concerns contractual data, the disclosure of which would impair PEF's efforts to contract for goods or services on favorable terms.</p>
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before "and seasonal."

In footnote 4, the words after "Reflects," and before "negotiated with."

The words after "capital cost," and before "(for Cypress)."

The words after "(for Cypress)," and before "and."

The words after "and," and before "were willing."

The words after "the estimated," and before "of required."

The words after "for Cypress," and before "was initially willing."

The number after "absorb the," and before "cost associated."

The words after "associated with the," and before "but later increases."

The words after "to include the," and before the "that resulted in."

The words after "to fund the," and before "proposed to absorb."

The number after "to absorb," and before "of cost associated."

The number after "having to fund," and before "of cost."

	<p>The word after “of cost,” and before “proposed to.”</p> <p>The number after “to absorb he,” and before “cost of the.”</p> <p>The words after “cost of the,” and before “resulting in PEF.”</p> <p>The words after “having to fund,” and before the start of the next paragraph.”</p> <p>The number after “alternative reflects a,” and before “Dth basis.”</p> <p>The words after “negotiated with,” and before “;and.”</p> <p>The word after “The,” and before “alternative reflects.”</p>	
<p>Interrogatory Number 154</p>	<p>The number after “which will be,” and before “summer.”</p> <p>The number after “(May through September,) and before “winter.”</p>	<p>§366.093(3)(e), Fla. Stat.</p> <p>The information in question relates to PEF’s competitive interests, the disclosure of which would impair PEF’s competitive business interests</p> <p>§366.09(3)(d), Fla. Stat.</p> <p>The information in question concerns contractual data, the disclosure of which would impair PEF’s efforts to contract for goods or services on favorable terms.</p>
<p>Interrogatory Number 162</p>	<p>All the words after “deal is as follows:”</p>	<p>§366.093(3)(e), Fla. Stat.</p> <p>The information in question relates to PEF’s competitive</p>

		<p>interests, the disclosure of which would impair PEF's competitive business interests</p> <p>§366.09(3)(d), Fla. Stat.</p> <p>The information in question concerns contractual data, the disclosure of which would impair PEF's efforts to contract for goods or services on favorable terms.</p>
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PEF contends that this information is intended to be and is treated as private and has not been voluntarily disclosed to the public. PEF states that the interrogatory responses at issue contain confidential information regarding contracts, bids, and proposals between PEF and fuel suppliers, as well as PEF's analysis of those contracts and proposals. PEF states that public disclosure of the information in question would violate confidentiality agreements between PEF and fuel suppliers and would impair PEF's ability to contract for services such as fuel supply on competitive and favorable terms. PEF negotiates with potential fuel suppliers and transportation companies to obtain competitive contracts for fuel options that provide economic value to PEF and its ratepayers. In order to obtain such contracts, PEF must be able to assure fuel suppliers and transportation companies that sensitive business information, such as the quantity and pricing terms of their contracts, will be kept confidential.

Upon review, it appears that the above-referenced information contained in PEF's responses to Staff Interrogatory Nos. 149-151, 154, and 162 from Staff's Fifth Set of Interrogatories to Progress Energy Florida Inc. (Nos. 148-164) satisfies the criteria set forth in Section 366.093(3), Florida Statutes, for classification as proprietary confidential business information and shall be treated as confidential. In particular, the information constitutes "[i]nformation concerning bids or other contractual data, the disclosure of which would impair the efforts of the company to contract for services on favorable terms." Thus, this information is granted confidential classification.

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.

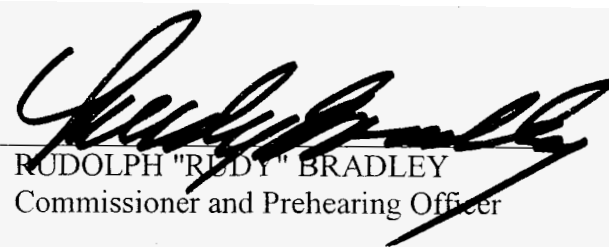
Based on the foregoing, it is

ORDERED by Commissioner Rudolph "Rudy" Bradley, as Prehearing Officer, that Progress Energy Florida, Inc.'s Fifth Request for Confidential Classification of Document No. 03693-05 is granted. It is further

ORDERED that the information in Document No. 03693-05 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 Rudolph "Rudy" Bradley, as Prehearing Officer, this 28th day of April, 2005.



RUDOLPH "RUDY" BRADLEY
Commissioner and Prehearing Officer

(SEAL)

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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.