

BEFORE THE PUBLIC SERVICE COMMISSION

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

DOCKET NO. 060001-EI
ORDER NO. PSC-06-0635-CFO-EI
ISSUED: July 28, 2006

ORDER GRANTING PROGRESS ENERGY FLORIDA, INC.'S
REQUEST FOR CONFIDENTIAL CLASSIFICATION
(DOCUMENT NO. 03701-06)

On April 26, 2006, 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 its response to Staff's Second Request for Production of Documents (Nos. 2-5) (Document No. 03701-06).

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 portions of its response to Request Nos. 2-5 of Staff's Second Request for Production of Documents falls 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 states that this information is intended to be and is treated by PEF as private and has not been publicly disclosed.

DOCUMENT NUMBER-DATE

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FPSC-COMMISSION CLERK

PEF requests that the following information be granted confidential classification:

DOCUMENT/RESPONSES	BATES NO./PAGE/LINE	JUSTIFICATION
<p>PEF's Response to Staff's Second POD, Question No. 2</p>	<p>Bates Nos. PEF-FUEL-001147 through 001148; 001150; 001152; 001155. E-mails; Bid Solicitation: contract period/term, tonnage and base price (CAM).</p> <p>Bates No. PEF-FUEL-001157; 001160 through 001162. E-mails; Bid Solicitation: contract period/term, tonnage and base price for CR 1 & 2 (Alpha).</p> <p>Bates No. PEF-FUEL-001163 through 001166. E-mails; Bid Solicitation: contract period/term, tonnage and base price for CR 1 & 2 (Onyx).</p> <p>Bates No. PEF-FUEL-001171. Bid Solicitation: contract period/term, tonnage and base price for CR 4 & 5 (CMC).</p> <p>Bates No. PEF-FUEL-001176. Bid Solicitation: contract period/term, tonnage and base price for CR 1 & 2 (ICG).</p> <p>Bates No. PEF-FUEL-001181. Bid Solicitation: contract period/term, tonnage and base price for CR 1 & 2 (Smoky Mountain Coal).</p> <p>Bates No. PEF-FUEL-001189. Memo containing term, quantity and base price (Kennecott).</p>	<p>§366.093(3)(d), F.S. The documents in question contains confidential information, the disclosure of which would impair PEF's efforts to contract for goods or services on favorable terms.</p> <p>§366.093(3)(e), F.S. The documents in question contains confidential information relating to competitive business interests, the disclosure of which would impair the competitive business of the provider/owner of the information.</p>

DOCUMENT/RESPONSES	BATES NO./PAGE/LINE	JUSTIFICATION
	<p>Bates No. PEF-FUEL-001224. Bid Solicitation: contract period/term, tonnage and base price for CR 1 & 2 (Emerald).</p>	
	<p>Bates No. PEF-FUEL-001227 and 001229. E-mail; Bid Solicitation: contract period/term, tonnage and base price for CR 4 & 5 (Inter American Coal).</p>	
	<p>Bates No. PEF-FUEL-001233. Memo containing term, quantity and base price (Williamson).</p>	
	<p>Bates No. PEF-FUEL-001235 through 001236; 001238 through 001239. Email containing commodity, term, quantity and base price (SSM Coal).</p>	
	<p>Bates No. PEF-FUEL-001248 and 001250. Memo with contract period in ¶2; Bid Solicitation: contract period/term, tonnage and base price for CR 1 & 2 (Trinity).</p>	
	<p>Bates No. PEF-FUEL-001256 and 001257. Email w/ term; Memo with term, quantity and price (Trinity).</p>	
	<p>Bates No. PEF-FUEL-001262. Coal Proposal #1 w/ term, quantity and base price (Coal Sales).</p>	
	<p>Bates No. PEF-FUEL-001265. Coal Proposal #2 w/ term, quantity and base price (Coal Sales).</p>	

DOCUMENT/RESPONSES	BATES NO./PAGE/LINE	JUSTIFICATION
	<p>Bates No. PEF-FUEL-001268. Coal Proposal #2 w/ term, quantity and base price (Coal Trade).</p>	
	<p>Bates No. PEF-FUEL-001274; 001279; 001283. Bid Solicitation: contract period/term, tonnage and base price for CR 4 & 5 (Glencore).</p>	
	<p>Bates No. PEF-FUEL-001287 and 001288. Email Memo w/ freight charge, term, quantity and price (SSM).</p>	
	<p>Bates No. PEF-FUEL-001291 through 001294. Memo w/ contract period/term, volume price (Guasare).</p>	
	<p>Bates No. PEF-FUEL-001298 and 001300. Bid Solicitation: contract period/term, tonnage and base price (Bandmill).</p>	
	<p>Bates No. PEF-FUEL-001306 and 001307. Email – pg. 1 (tons), pg. 2 (term and price) (Madison).</p>	
	<p>Bates No. PEF-FUEL-001310 through 001315. Bid Solicitation/Proposal: entire document confidential - see page 3 of agreement (Constellation).</p>	
	<p>Bates No. PEF-FUEL-001316. Email – period, quantity/tons and price (Keystone).</p>	

DOCUMENT/RESPONSES	BATES NO./PAGE/LINE	JUSTIFICATION
	<p>Bates No. PEF-FUEL-001318. Proposal – term, tonnage and price (B & W Resources).</p> <p>Bates No. PEF-FUEL-001320. Memo – term, price, and quantity (Central Coal).</p> <p>Bates No. PEF-FUEL-001321. Memo/Bid Sheet – quantity, term and price (SMJ).</p> <p>Bates No. PEF-FUEL-001322. Memo/Bid Sheet – price, tonnage and term (Appalachian/Stafford).</p> <p>Bates No. PEF-FUEL-001324 and 001326. Emails – term and price (Emerald).</p> <p>Bates No. PEF-FUEL-001329 through 001339. Transportation Rate Assumptions – charts, spreadsheets – includes prices and forecasts.</p> <p>Bates No. PEF-FUEL-001340 through 001343. Amendments to Massey/PFC Coal Agreements.</p>	

DOCUMENT/RESPONSES	BATES NO./PAGE/LINE	JUSTIFICATION
	<p>Bates No. PEF-FUEL-001344 through 001361. Coal Purchase Agreement between PEF/Glencore – entire document confidential – see page 13.</p> <p>Bates No. PEF-FUEL-001362 through 001389. Coal Purchase Agreement between PEF/Guasare – entire document confidential – see page 21.</p> <p>Bates No. PEF-FUEL-001390 through 001404. Coal Purchase Agreement between PEF/Trinity – entire document confidential – see page 13.</p> <p>Bates No. PEF-FUEL-001405 through 001420. Coal Purchase Agreement between PEF/CAM Mining – entire document confidential – see page 14.</p> <p>Bates No. PEF-FUEL-001421 through 001435. Coal Purchase Agreement between PEF/B & W Resources – entire document confidential – see page 13 and 14.</p>	

DOCUMENT/RESPONSES	BATES NO./PAGE/LINE	JUSTIFICATION
PEF's Response to Staff's Second POD, Question No. 3	<p>Bates Nos. PEF-FUEL-001439 and 001440. Evaluations Chart.</p> <p>Bates Nos. PEF-FUEL-001441 through 001477. Emails and Bid Proposals received from various suppliers - Supplier names and contact information, contract terms, volumes, and pricing.</p> <p>Bates Nos. PEF-FUEL-001478. Summary - "PEF Natural Gas Supply Commodity Contracts in Effect during 2006/2007" - entire document - contains supplier information, volumes, prices and descriptions.</p> <p>Bates Nos. PEF-FUEL-001479 through 001563. Emails and Gas Trade Tickets - Supplier names and contact information, contract price, delivery period, delivery points, special conditions, and volumes.</p>	<p>§366.093(3)(d), F.S. The documents in question contains confidential information, the disclosure of which would impair PEF's efforts to contract for goods or services on favorable terms.</p> <p>§366.093(3)(e), F.S. The documents in question contains confidential information relating to competitive business interests, the disclosure of which would impair the competitive business of the provider/owner of the information.</p>
PEF's Response to Staff's Second POD, Question No. 4	Bates Nos. PEF-FUEL-001564 and 001565. Email / Extension Agreement for Suwannee Plant - term and price (Rio Energy).	§366.093(3)(e), F.S. The document in question contains confidential information relating to competitive business interests, the disclosure of which would impair the competitive business of the provider/owner of the information.

DOCUMENT/RESPONSES	BATES NO./PAGE/LINE	JUSTIFICATION
<p>PEF's Response to Staff's Second POD, Question No. 5</p>	<p>Bates Nos. PEF-FUEL-001566 through 001622. Purchase Power Agreement between PEF/Relaint (Osceola) – entire document confidential – see Section 26, page 50.</p> <p>Bates Nos. PEF-FUEL-001625 through 001629. Osceola Business Analysis Package – contains terms, pricing, quantity, risks, market survey and analyses.</p> <p>Bates Nos. PEF-FUEL-001634 through 001640; 001642 through 001644. CP&L Business Analysis Package – contains terms, pricing, quantity, risks, NPV chart, intangibles, Appendix A, Appendix B and analyses.</p> <p>Bates Nos. PEF-FUEL-001647 through 001690. Purchase Power Agreement between PEF/ Central Power & Lime(CP&L): Page 1; Lines 1-2. Page 2; Lines 1-9. Page 3; Lines 1-20. Page 4; Lines 1-7 Page 5; Lines 1-7. Page 9; Lines 1-39. Page 10; Lines 1-29. Page 11; Lines 1-12, 21-40. Page 12; Lines 1-11, 12-22, 24-40. Page 13; Lines 1-2 Page 14; Lines 1-9. Page 15; Lines 1-38. Page 17; Lines 1-5. Page 19; Lines 1-19, 32-33. Page 20; Lines 1-6. Page 23; Lines 1-9. Page 24; Lines 1-4.</p>	<p>§366.093(3)(d), F.S. The documents in question contains confidential information, the disclosure of which would impair PEF's efforts to contract for goods or services on favorable terms.</p> <p>§366.093(3)(e), F.S. The documents in question contains confidential information relating to competitive business interests, the disclosure of which would impair the competitive business of the provider/owner of the information.</p>

DOCUMENT/RESPONSES	BATES NO./PAGE/LINE	JUSTIFICATION
	<p>Page 28; Line 1. Page 29; Line 1. Page 33; All lines. Exhibit A; Line 1, 5-16. Exhibit B; Line 1, 3-4, 6, 8-16. Exhibit C – All lines. Exhibit D – All lines. Exhibit F – All lines.</p> <p>Bates Nos. PEF-FUEL-001693 through 001695. Reliant Request #1 – Tolling Agreement – all pages.</p> <p>Bates Nos. PEF-FUEL-001696 through 001698. Reliant Request #2 – Tolling Agreement – all pages.</p> <p>Bates Nos. PEF-FUEL-001700 through 001702. 8/25/05 Internal PEF Presentation “PEF 2006-2007 Capacity Needs” Page 2 – capacity amounts Page 3 – Alt. #1 - terms, pricing, quantity Page 4 – Alt. #2 - terms, pricing, quantity.</p> <p>Bates Nos. PEF-FUEL-001709 through 001710; 001714; 001716; 001717; and 001720. 12/14/05 Internal PEF Presentation – RCO Deal Reviewer’s Meeting “PEF 2006-2009 Capacity Purchases” Page 4 – summary Page 5 – term, pricing, quantity Page 9 - entire chart Page 11 – Pricing Page 12 – Cost Summary Page 15 – Risk Overview – pricing, capacity, overview.</p>	

PEF contends that this information contains confidential information regarding contractual data, such as pricing and quantities of fuels, and other contractual terms, the disclosure of which would impair the efforts of PEF or its affiliates to negotiate fuel supply contracts on favorable terms. PEF asserts that this information also relates to the competitive interests of PEF and its fuel suppliers, the disclosure of which would impair their competitive businesses. PEF states that this information is intended to be and is treated by PEF as private and has not been publicly disclosed.

Upon review, it appears that the above-referenced information contained in PEF's response to Staff's Second Request for Production of Documents, Nos. 2-5, satisfies the criteria set forth in Section 366.093(3), Florida Statutes, for classification as proprietary confidential business information and, thus, shall 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," "[i]nformation relating to competitive interests, the disclosure of which would impair the competitive business of the provider of the information," or information that if disclosed could cause harm. 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.

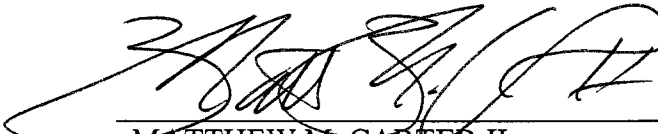
Based on the foregoing, it is

ORDERED by Commissioner Matthew M. Carter II, as Prehearing Officer, that Progress Energy Florida, Inc.'s Request for Confidential Classification of Document No. 03701-06 is granted. It is further

ORDERED that the information in Document No. 03701-06 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 Matthew M. Carter II, as Prehearing Officer, this 28th
day of July, 2006.



MATTHEW M. CARTER II
Commissioner and Prehearing Officer

(S E A L)

LCB/pz

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.