

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for approval of third negotiated purchase power contract with Hathaway Renewable Energy, Inc. by Progress Energy Florida, Inc.

DOCKET NO. 100347-EQ
ORDER NO. PSC-10-0584-CFO-EQ
ISSUED: September 22, 2010

ORDER GRANTING PROGRESS ENERGY FLORIDA, INC.'S REQUEST FOR
CONFIDENTIAL CLASSIFICATION OF COMPETITIVELY NEGOTIATED
CONTRACTUAL DATA (DOCUMENT NO. 05520-10)

On July 6, 2010, pursuant to Section 366.093, Florida Statutes (F.S.) and Rule 25-22.006, Florida Administrative Code (F.A.C.), Progress Energy Florida, Inc. (PEF) filed a request for confidential classification of certain information relating to competitively negotiated contractual data, such as certain terms, dates, letter of credit amount, environmental cost limit amount, facility configuration, and seller's corporate bank information.

Request for Confidentiality

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 Section 119.07(1) [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. Paragraphs (d) and (e) of Section 366.093(3) F.S., provide 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;" and "[i]nformation relating to competitive interests, the disclosure of which would impair the competitive business of the provider of the information."

PEF contends that the certain information relates to competitively negotiated contractual data contained in Exhibit A to the Petition, specifically the Hathaway Contract, falls within these categories and thus, constitutes proprietary confidential business information entitled to protection under Section 366.093, F.S. and Rule 25-22.006, F.A.C. PEF states that this information is intended to be and is treated by PEF as private and has not been publicly disclosed. Attachment A, attached hereto and incorporated herein, contains a detailed justification of the confidentiality of the information at issue.

Therefore, PEF's request for confidential classification of Document No. 05520-10 is granted. Furthermore, this information shall be classified as confidential for a period of 18 months from the date of this Order.

DOCUMENT NUMBER DATE

07937 SEP 22 2010

FPSC-COMMISSION OFFICE

Based on the foregoing, it is

ORDERED by Commissioner Art Graham, as Prehearing Officer, that Progress Energy Florida, Inc.'s Request for Specific Confidential Classification of Document No. 05520-10, as set forth in Attachment A, which is attached and incorporated herein, is granted. It is further

ORDERED that pursuant to Sections 366.093, F.S. and Rule 25-22.006, F.A.C., the confidentiality granted to the material specified herein shall expire eighteen (18) months from the date of the issuance of this Order, in the absence of a renewed request for confidentiality pursuant to Section 364.183, Florida Statutes. 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.

By ORDER of Commissioner Art Graham, as Prehearing Officer, this 22nd day of September, 2010.



ART GRAHAM
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; 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.

Request for Confidential Classification of PEF's Exhibit A to the Petition, Document No. 05520-10, Filed July 6, 2010

Explanation of Proprietary Information

1. §366.093(3)(d), F.S. The document in question contains confidential information, the disclosure of which would impair PEF's efforts to contract for goods or services on favorable terms.

2. §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.

Location	Document/Description	Reason
Exhibit A to the Petition		
Page 13, Section 2.3	Regulatory approval time limit.	1 & 2
Page 13, Section 3.1(i)	Transmission plan deadline in Conditions Precedent.	1 & 2
Page 13, Section 3.1(ii)	Financial closing deadline in Conditions Precedent.	1 & 2
Page 13, Section 3.1(iv)	Insurance policy deadline in Conditions Precedent.	1 & 2
Page 13, Section 3.1(v)	QF status deadline in Conditions Precedent.	1 & 2
Page 21, Section 6.9(c)	Letter of Credit amount.	1 & 2
Page 27, Section 12.8	Environmental cost limit.	1 & 2
Page 40, Appendix 1	Facility Configuration.	1 & 2
Page 45, Appendix 5	Hathaway's corporate information (codes, bank routing numbers and acct # for payments).	1 & 2