

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

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

DOCKET NO. 030001-EI  
ORDER NO. PSC-03-1184-CFO-EI  
ISSUED: October 21, 2003

ORDER GRANTING CONFIDENTIAL CLASSIFICATION OF  
CERTAIN MATERIALS PROVIDED BY PROGRESS ENERGY FLORIDA, INC.  
PURSUANT TO AUDIT NO. 03-045-2-1  
(DOCUMENTS NOS. 04275-03, 04276-03, AND 04788-03)

Progress Energy Florida, Inc. (Progress Energy) requests confidential classification of certain materials provided to us in connection with our staff's audit report and working papers obtained during the preparation of "Progress Energy Florida Waterborne Audit for the Twelve Months Ended December 31, 2002," Audit No. 03-045-2-1 (Audit). Progress Energy makes this request pursuant to Section 366.093, Florida Statutes, and Rule 25-22.006, Florida Administrative Code. Progress Energy asserts that this information is intended to be, and is treated by Progress Energy and its affiliates, as confidential information. Progress Energy affirms that this information has not been publicly disclosed. This request for confidential classification was filed on May 29, 2003. The information for which Progress Energy seeks confidential treatment is filed with the Commission as Documents Nos. 04275-03, 04276-03, and 04788-03.

Progress Energy requests that the following working papers be granted confidential classification:

DOCUMENT NUMBER-DATE

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FPSC-COMMISSION CLERK

Utility Page Number	Staff Work Paper Number	Sensitive Areas	Type of Information Classified Confidential
Documents 04275-03 and 04788-03			
WP 1	Audit Report Disclosure 3	2 marked areas	Cost per ton
WP 2	Audit Report Disclosure 3	7 marked areas	Cost per ton
Documents 04276-03 and 04788-03			
WP 3	2A, page 1	Cols. "January" to "June"	Detailed financial data
WP 4	2A, page 2	Cols. "January" to "June"	Detailed financial data
WP 5	2A, page 3	Cols. "January" to "June"	Detailed financial data
WP 6	2A, page 4	Cols. "January" to "June"	Detailed financial data
WP 7	2A, page 5	Cols. "January" to "June"	Detailed financial data
WP 8	2B, page 1	Cols. "July" to "December"	Detailed financial data
WP 9	2B, page 2	Cols. "July" to "December"	Detailed financial data
WP 10	2B, page 3	Cols. "July" to "December"	Detailed financial data
WP 11	2B, page 4	Cols. "July" to "December"	Detailed financial data

Utility Page Number	Staff Work Paper Number	Sensitive Areas	Type of Information Classified Confidential
WP 12	2B, page 5	Cols. "July" to "December"	Detailed financial data
WP 13	10-5	Marked line	Cost per ton
WP 14	10-5/1	3 marked fields	Cost per ton
WP 15	10-6/1	Marked field	Cost per ton
WP 16	10-8/1	5 marked fields	Cost per ton
WP 17	10-8/2	Marked field  Col. "Sales Price"  Col. "Amount"	Cost per ton
WP 18	10-8/3, page 1	Marked field  Cols. "July" to "December"	Detailed financial data
WP 19	10-8/3, page 2	Cols. "July" to "December"	Detailed financial data
WP 20	10-8/3, page 3	Cols. "July" to "December"	Detailed financial data
WP 33	42	5 marked fields	Cost per ton
WP 34	42-1	2 marked fields	Cost per ton
WP 35	42-2, page 1	11 marked fields	Cost per ton
WP 36	42-2, page 2	6 marked fields	Contractual terms and cost per ton
WP 37	42-2/2	5 marked fields	Contractual terms

Utility Page Number	Staff Work Paper Number	Sensitive Areas	Type of Information Classified Confidential
WP 38	42-2/1	11 marked fields	Cost per ton
WP 39	42-3, page 1	3 marked fields	Contractual terms and cost per ton
WP 40	42-3, page 2	6 marked fields	Contractual terms and cost per ton
WP 41	42-3, page 3	8 marked fields	Contractual terms and cost per ton
WP 42	42-3, page 4	13 marked fields	Contractual terms and cost per ton
WP 43	42-3, page 5	13 marked fields	Contractual terms
WP 44	43-3/1	18 marked fields	Contractual terms
WP 45	42-3, page 1	6 marked fields	Contractual terms
WP 46	42-3, page 2	15 marked fields	Contractual terms
WP 47	42-3, page 3	23 marked fields	Contractual terms
WP 48	42-3, page 4	12 marked fields	Contractual terms
WP 49	42-3/3	13 marked fields	Cost per ton
WP 50	45-1, page 1	6 marked fields	Cost per ton
WP 51	45-1, page 2	9 marked fields	Cost per ton

Utility Page Number	Staff Work Paper Number	Sensitive Areas	Type of Information Classified Confidential
WP 52	45-1, page 3	6 marked fields	Cost per ton
WP 53	45-1, page 4	6 marked fields	Cost per ton
WP 54	45-1, page 5	5 marked fields	Cost per ton
WP 55	45-1, page 6	6 marked fields	Cost per ton
WP 56	45-1, page 7	5 marked fields	Cost per ton
WP 57	45-1, page 8	5 marked fields	Cost per ton
WP 58	45-1, page 9	5 marked fields	Cost per ton
WP 59	45-1, page 10	5 marked fields	Cost per ton
WP 60	45-1, page 11	5 marked fields	Cost per ton
WP 61	45-1, page 12	5 marked fields	Cost per ton
WP 62	45-2	6 marked fields	Cost per ton
WP 63	45-2/1	8 marked fields	Cost per ton
WP 64	45-2/2	8 marked fields	Cost per ton
WP 65	45-2/3	8 marked fields	Cost per ton
WP 66	45-2/4	30 marked fields	Cost per ton

Utility Page Number	Staff Work Paper Number	Sensitive Areas	Type of Information Classified Confidential
WP 67	45-2/5	Col. "Coal Cost"  Col. "Water Freight"  Col. "Total"	Cost per ton
WP 68	45-2/6	Col. "Coal Cost"  Col. "Cost"	Cost per ton
WP 70	45-2/7	4 marked fields	Cost per ton
WP 71	45-3	2 marked fields	Cost per ton
WP 72	46	Col. "Amount"  Col. "Contract Amount"  Col. "Invoice Amount"  Col. "Difference"	Cost per ton
WP 73	46-1	Col. "Contract"  Col. "Invoice"  Col. "Difference"	Cost per ton

Utility Page Number	Staff Work Paper Number	Sensitive Areas	Type of Information Classified Confidential
WP 74	46-2	Col. "Amount"  Col. "Contract Amount"  Col. "Invoice Amount"  Col. "Comments - Accounts Charged"	Cost per ton
WP 75	46-3	Marked field	Cost per ton
WP 76	46-4	Col. "Amount"  Col. "Cost Per ton"  Col. "Total Charge"	Cost per ton
WP 77	47, page 1	Col. "Price Per Ton"  Col. "January"  Col. "Price Per Ton"  Col. "February"  Col. "Price Per Ton"  Col. "March"	Cost per ton

Utility Page Number	Staff Work Paper Number	Sensitive Areas	Type of Information Classified Confidential
WP 78	47, page 2	Col. "Price Per Ton"  Col. "January"  Col. "Price Per Ton"  Col. "February"  Col. "Price Per Ton"  Col. "March"	Cost per ton
WP 79	47-1	6 marked fields	Cost per ton
WP 80	47-2	14 marked fields	Cost per ton
WP 81	48	2 marked fields	Cost per ton
WP 82	48-1	15 marked fields	Cost per ton
WP 83	49	6 marked fields	Cost per ton

Progress Energy asserts that some of the information presented in the audit report and working papers identifies the price per ton paid by Progress Fuels Corporation (PFC), Progress Energy's affiliated coal supplier, for coal and waterborne coal transportation, or the dollar amounts and related tonnage from which price per ton can be readily calculated. Progress Energy claims that disclosure of this information would provide PFC's existing and potential coal and waterborne transportation suppliers with a significant competitive advantage in bidding or negotiating PFC's future coal purchases and waterborne transportation services. According to Progress Energy, this competitive advantage would



allow the suppliers to avoid offering their lowest price and instead simply undercut PFC's existing price. As a result, PFC, Progress Energy, and ultimately its customers would incur higher fuel costs than if PFC's suppliers were not provided with this competitively sensitive information.

Progress Energy also claims that some of the information presented in the staff working papers identifies sensitive contractual terms and specifications negotiated by PFC for the purchase of coal and waterborne services, in addition to pricing information. Progress Energy states that disclosure of these contractual terms and specifications would be detrimental to PFC, Progress Energy, and its customers. Progress Energy asserts that disclosure would place PFC at a competitive disadvantage in future negotiations with potential suppliers of similar coal and waterborne transportation services who would use the most advantageous of these terms and specifications as the beginning point, or floor, of their bargaining position and the least advantageous terms and specifications as their ceiling, knowing in either case that they had been previously accepted by PFC. Progress Energy further asserts that existing and potential suppliers of coal and waterborne transportation services would be less willing or unwilling, to offer special or unique concessions on contractual terms and specification if they were aware that such concessions may be disclosed to other purchasers who would then demand similar concessions. According to Progress Energy, either of these situations would impair PFC's efforts to contract for goods and services on favorable terms, to the detriment of Progress Energy's customers in the form of higher fuel costs.

In addition, Progress Energy states that some of the information presented in the working papers identifies detailed monthly and annual financial data for 2002 from the income statement of PFC's regulated operations, the portion of its business dedicated to the procurement and delivery of coal to Progress Energy's Crystal River plant site. Progress Energy asserts that disclosure of this publicly unavailable information would provide existing and potential suppliers of coal and transportation services, as well as its competitors, with a highly detailed breakdown of the various financial and operational components affecting PFC's profitability. Progress Energy claims that when coupled with other publicly available information, such as the corresponding monthly data from the FPSC Form 423 regarding

individual suppliers, quantities and delivered prices, this information would allow these suppliers an otherwise unavailable insight into the strengths and vulnerabilities of PFC's regulated operations which they could then use to gain a competitive advantage in future negotiations with PFC for coal and transportation services. According to Progress Energy, negotiating with suppliers who are forewarned with this detailed knowledge of the nuances of PFC's profitability would impair its efforts to contract for goods and services on favorable terms, to the detriment of its customers in the form of higher fuel costs.

Progress Energy asserts that, pursuant to Section 366.093, Florida Statutes, such information is entitled to confidential classification and is exempt from the mandatory disclosure provisions of the public records law. Progress Energy asserts that the sensitive contractual and competitive information, if disclosed, would impair the efforts of the public utility or its affiliates to contract for goods or services on favorable terms. Section 366.093(3)(d), Florida Statutes. Progress Energy also asserts that the information for which it seeks confidential classification relates "to competitive interests, the disclosure of which would impair the competitive business of the provider of the information." Section 366.093(3)(e), Florida Statutes.

#### CONCLUSION

Upon review, it appears that the information discussed above is proprietary confidential business information and should be granted confidential treatment. Based on the foregoing, Progress Energy's request for confidential treatment of Documents Nos. 04275-03, 04276-03, and 04788-03 is granted.

It is therefore

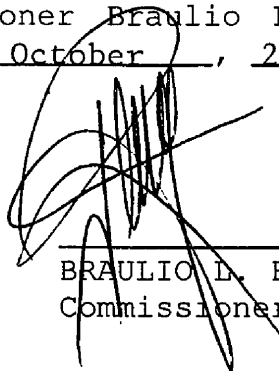
ORDERED by Commissioner Braulio L. Baez, as Prehearing Officer, that the information described in Progress Energy Florida, Inc.'s request for confidential treatment of certain materials in the audit report and working papers obtained during the preparation of Progress Energy Florida Waterborne Transportation Audit for the Twelve Months ending December 31, 2002, Audit No. 03-045-2-1, Documents Nos. 04275-03, 04276-03, and 04788-03, is granted confidential classification. It is further

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ORDERED that the information described within the body of this Order shall be granted confidential treatment for 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 of the date of declassification of the materials discussed herein.

By ORDER of Commissioner Braulio L. Baez, as Prehearing Officer, this 21st day of October, 2003.

 for Commissioner Braulio Baez

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BRAULIO L. BAEZ  
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

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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.