

BEFORE THE PUBLIC SERVICE COMMISSION

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

DOCKET NO. 050001-EI  
ORDER NO. PSC-05-0417-CFO-EI  
ISSUED: April 19, 2005

ORDER GRANTING REQUEST FOR CONFIDENTIAL CLASSIFICATION  
(DOCUMENT NO. 02124-05)

On March 1, 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 Exhibit JP-5T to the prepared direct testimony of PEF witness Javier~~ ~~Portuondo and Exhibits AWP-2 and AWP-3 to the prepared direct testimony of PEF witness~~ Albert W. Pitcher, filed March 1, 2005. (Document No. 02124-05).

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 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 Exhibit JP-5T to the prepared direct testimony of PEF witness Javier Portuondo and Exhibits AWP-2 and AWP-3 to the prepared direct testimony of PEF witness Albert W. Pitcher 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 states that this information is intended to be and is treated by PEF as private and has not been publicly disclosed.

PEF contends that the information contained on Page 2, Lines 1-7, of Schedule A12 in Mr. Portuondo’s Exhibit No. JP-5T contains data related to confidential wholesale power purchase and sale contracts. PEF asserts that the information provides the number of megawatts for each purchase or sale. According to PEF, this information, in combination with other non-confidential cost data provided in the exhibit, could be used to determine the capacity charges for each contract. PEF states that disclosure of this information would enable wholesale providers to determine the prices of their competitors, which would likely result in greater price convergence in future negotiations. PEF states that suppliers would no longer need to make their best offers to ensure the competitiveness of their prices against the disclosed prices. PEF contends that

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disclosure of the information would impair PEF's efforts to contract for goods or services on favorable terms. PEF further asserts that disclosure of the capacity charges paid by PEF's wholesale customers would provide an unfair advantage to competitors pursuing such customers. PEF contends that the information relates to the competitive interests of PEF and its affiliates, the disclosure of which would impair their competitive businesses.

PEF contends that the information contained on Lines 1-10 of Mr. Pitcher's Exhibit AWP-2 includes pricing information for replacement coal purchases by PEF's affiliate, Progress Fuels Corporation (PFC), as well as fuel forecast information. PEF asserts that disclosure of this information would provide coal suppliers with knowledge of prices that PFC has paid and expects to pay for coal. PEF states that this knowledge would give suppliers a significant competitive advantage in future negotiations because they would no longer need to make their best offers to ensure the competitiveness of their rates against the disclosed prices or forecasts. According to PEF, disclosure of the information would impair the efforts of PEF and PFC to contract for goods or services on favorable terms.

PEF contends that the information contained on Lines 1-3, 5-8, 13-14, 18, and 20-22 of Mr. Pitcher's Exhibit No. AWP-3 includes data related to coal transportation costs. PEF states that the information contains the costs for ocean-going barges used to transport coal, the tons of coal transported, the number of trips, the 2004 cross-Gulf waterborne transportation rate established in the Stipulation and Settlement in Docket No. 031057-EI, and the incremental cost per ton above the settlement rate. PEF contends that this information, either alone or in conjunction with other confidential information, would provide alternative transportation suppliers with direct knowledge of the waterborne transportation rates with which they must compete. According to PEF, disclosure of this information would impair the efforts of the company and its affiliates to contract for goods or services on favorable terms.

Upon review, it appears that the above-referenced information contained in Exhibit JP-5T to the prepared direct testimony of PEF witness Javier Portuondo and Exhibits AWP-2 and AWP-3 to the prepared direct testimony of PEF witness Albert W. Pitcher, 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" and "[i]nformation relating to competitive interests, the disclosure of which would impair the competitive business of the provider of the information." 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

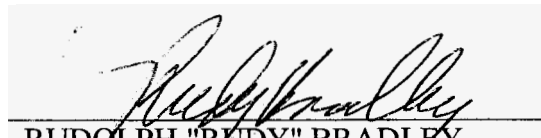
ORDERED by Commissioner Rudolph "Rudy" Bradley, as Prehearing Officer, that Progress Energy Florida, Inc's Request for Confidential Classification of Document No. 02124-05 is granted. It is further

ORDERED that the information in Document No. 02124-05 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.

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By ORDER of Commissioner Rudolph "Rudy" Bradley, as Prehearing Officer, this  
19th day of April, 2005



RUDOLPH "RUDY" BRADLEY  
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; 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.

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