

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-05-0460-CFO-EI
ISSUED: April 28, 2005

ORDER GRANTING AMENDED FIRST REQUEST FOR CONFIDENTIAL CLASSIFICATION (DOCUMENT NOS. 13318-04 and 03881-05)

On December 20, 2004, pursuant to Section 366.093, Florida Statutes, and Rule 25-22.006, Florida Administrative Code, Progress Energy Florida, Inc. (PEF) filed a first request for confidential classification covering the redacted portions of the direct testimony of Pamela R. Murphy, as well as portions of Exhibits PRM-1, PRM-2, PRM-3, PRM-5, and PRM-6 to that testimony (Document No. 13318-04). On April 20, 2005, PEF filed an amended first request for confidential classification, which covered the revised redacted portions of the direct testimony of Pamela R. Murphy, specifically portions of pages 13 and 14, and the revised Exhibits PRM-5 and PRM-6 to that testimony (Document No. 03881-05).

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 the redacted portions of Ms. Murphy's direct testimony as well as portions of Exhibits PRM-1, PRM-2, PRM-3, PRM-5, and PRM-6 to that testimony 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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FPSC-COMMISSION CLERK

PEF requests that the following information be granted confidential classification:

DOCUMENTS	PAGE/LINE	JUSTIFICATION
Direct Testimony of Pamela R. Murphy.	<p>Page 5, line 7 – 9, 13 – 14, 17 -18, 20, 25 after first two words</p> <p>Page 6, line 1, first word.; line 1, last 2 words; line 2, first 9 words</p> <p>Page 7, line 21, word 6 through 9; line 23, last 6 words; line 24, entire line</p> <p>Page 10, line 4, 2nd and 3rd word</p> <p>Page 11, line 10, entire line after (1); line 11, entire line; line 12 first ½ of line before (2); line 13, words 5 through 7; line 16, words 8 through end of sentence.</p> <p>Page 12, line 3, words 5 through 7; line 6, 2nd word.</p> <p>Page 13, line 23; 3rd word from end; line 24, 4th word; line 25, end of line after word “approximately”.</p> <p>Page 14, line 20, 4th and 5th words; line 21, 3rd and 4th word</p>	<p>§366.093(3)(d), Fla. Stat.</p> <p>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.</p> <p>§366.093(3)(e), Fla. Stat.</p> <p>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.</p>
Exhibit PRM-1 to Direct Testimony of Pamela R. Murphy.	<p>Page 1, last paragraph in its entirety</p> <p>Page 2, 1st, 2nd, 4th and 6th paragraph in their entirety</p> <p>Page 4, 1st and 17th paragraph in their entirety</p>	<p>§366.093(3)(d), Fla. Stat.</p> <p>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.</p>

	<p>Page 5, 5th, 6th and 9th paragraphs in their entirety</p> <p>Page 6, Paragraph 3.3., Line 5, 7th word</p> <p>Page 10, last paragraph</p> <p>Pages 11, 1st paragraph and Section 11 in its entirety</p> <p>Page 12, complete page</p> <p>Page 13, Section 12 in its entirety</p> <p>Page 14, Section 12</p> <p>Page 14, Section 13</p> <p>Page 15, Section 13</p> <p>Page 16, Section 15</p> <p>Page 17, Section 17</p> <p>Page 18, Section 17</p> <p>Page 19, Section 17</p> <p>Page 20, Section 17</p> <p>Pages 26, 27, 28, 29, 30, 31, 32, 33, and 34, Annex A</p> <p>Pages 35, 36, 37, and 38, Annex B</p>	<p>With respect to Exhibit PRM-1, the supplier of the information in question, BG LNG Services, LLC, has specifically requested that PEF keep the information in question confidential. BG LNG, Services, LLC has also specifically requested that PEF seek confidential classification in this docket for that information for the reasons set forth in the Affidavit of David M. Jenkins that has been filed in this matter.</p> <p>§366.093(3)(e), Fla. Stat.</p> <p>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.</p>
<p>Exhibit PRM-2 to Direct Testimony of Pamela R. Murphy.</p>	<p>Page 4, paragraph (d), line 2, 5th word</p> <p>Page 6, paragraph (g), line 2, 8th word</p>	<p>§366.093(3)(d), Fla. Stat.</p> <p>The document in question contains confidential information, the disclosure of</p>

	<p>Page 14, 1st paragraph, 3rd line, first 3 words Page 14, paragraph (B), line 5, 5th through 7th word</p> <p>Page 14, paragraph (iii) 2nd line, last word and lines 3, 4 and 5</p> <p>Page 21, first paragraph of 9., line 6, 10th word and line 13, 7th word</p> <p>Exhibit "A", Column TD/MMBtu and Column FGTTD in their entirety</p> <p>Exhibit A to Exhibit "B", all information as to Service Code, Receipt Points/Code, MDRQ, Season, Year and Footnote 1</p> <p>Exhibit B to Exhibit "B", all information in Service Code, Start Date, Primary Term, PT Notice, Evergreen Term, Evrg Notice, Del. Point/Code Name, TD MDDQ and footnotes 5 and 6</p> <p>Exhibit "F" to Exhibit "B", First paragraph, 3rd line, 4th through 6th words</p>	<p>which would impair PEF's efforts to contract for goods or services on favorable terms.</p>
<p>Exhibit PRM-3 to Direct Testimony of Pamela R. Murphy.</p>	<p>December 2, 2004 Discount Rate letter, Page 1, 2nd paragraph, 1st line, all words following "from", 2nd line, 1st and 2nd words, and all of paragraph 4 except titles</p> <p>December 2, 2004 Discount Rate letter, Page 2, 1st table,</p>	<p>§366.093(3)(e), Fla. Stat.</p> <p>The document in question contains confidential information relating to competitive business interests, the disclosure of which would impair the competitive business of the</p>



	<p>all information contained in Effective Time Period column and Receipt and Delivery Points column; 2nd Table paragraph, all information contained in Effective Time Period column, Volume (MMBtu) and Discounted Demand Charge columns</p> <p>Attachment A, final-sum, paragraph 2.1, 5th line, word 7 and 8; 6th line, words 1 through 4</p> <p>Attachment A, Page 4, paragraph (a), all words after “follows:”; paragraph (d), 4th line 4th through 8th word; line 6, all words in paragraph following “(i)”</p> <p>Attachment A, Page 5, 1st 4 lines</p> <p>Attachment A, Page 10, paragraph 8.2, last 4 words</p> <p>Attachment Rate Schedule FTS-2, pages 16 through 21 in their entirety</p> <p>Attachment A, final-win, Page 2, paragraph 2.1 line 5 3rd through 5th and 13th through 15th words</p> <p>Attachment A, final-win, Page 4, paragraph (a), all words after “follows”; paragraph (d) 4th line, 4th through 8th word; line 6, all words in paragraph following “(i)”</p> <p>Attachment A, final-win,</p>	<p>provider/owner of the information.</p>
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	Attachment Rate Schedule FTS-2, pages 14 through 19 in their entirety	
Exhibit PRM-5 to Direct Testimony of Pamela R. Murphy.	Entire Page	§366.093(3)(d), Fla. Stat. 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. §366.093(3)(e), Fla. Stat. 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.
Exhibit PRM-6 to Direct Testimony of Pamela R. Murphy.	Entire Page	§366.093(3)(d), Fla. Stat. 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. §366.093(3)(e), Fla. Stat. 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.

		<p>§366.093(3)(d), Fla. Stat.</p> <p>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.</p> <p>§366.093(3)(e), Fla. Stat.</p> <p>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.</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 portions of testimony and exhibits at issue contain confidential competitive business information of both PEF and third-party fuel suppliers and transportation companies with which PEF has contracts. Specifically, these materials call for information relating to confidential contracts and proposals between PEF and potential 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 the redacted portions of Pamela R. Murphy's direct testimony and portions of Exhibits PRM-1, PRM-2, PRM-3, PRM-5, and PRM-6 to that testimony, 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 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.

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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.

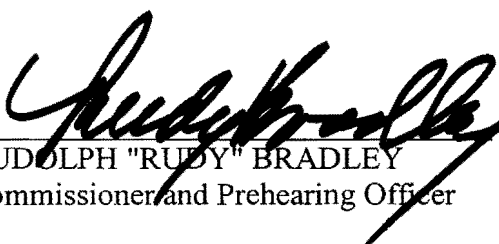
Based on the foregoing, it is

ORDERED by Commissioner Rudolph "Rudy" Bradley, as Prehearing Officer, that Progress Energy Florida, Inc.'s Amended First Request for Confidential Classification of Document Nos. 13318-04 and 03881-05 is granted. It is further

ORDERED that the information in Document Nos. 13318-04 and 03881-05 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.