

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-05-0461-CFO-EI
ISSUED: April 29, 2005

ORDER GRANTING SEVENTH REQUEST FOR CONFIDENTIAL CLASSIFICATION (DOCUMENT NOS. 03936-05, 04110-05 AND 04144-05)

On April 27, 2005, pursuant to Section 366.093, Florida Statutes, and Rule 25-22.006, Florida Administrative Code, Progress Energy Florida, Inc. (PEF) filed its seventh request for confidential classification of portions of the transcript of the panel deposition taken on April 19, 2005, and the exhibits to that deposition. (Document Nos. 03936-05, 04110-05, and 04144-05).

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 portions of the transcript of the panel deposition taken on April 19, 2005, and the exhibits to that deposition 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.

PEF requests that the following information be granted confidential classification:

DOCUMENTS/RESPONSES	PAGE/LINE	JUSTIFICATION
Panel Deposition of Pamela R. Murphy, Robert F. Caldwell, Bruce H. Hughes and Samuel S. Waters	Page 15, Line 5: All information in line after "confidential" Page 25, Lines 15 through 18: All information in lines	§366.093(3)(e), Fla. Stat. The information in question relates to PEF's competitive interests, the disclosure of which would impair PEF's

DOCUMENT NUMBER-DATE

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DOCUMENTS/RESPONSES	PAGE/LINE	JUSTIFICATION
	<p>Pages 25 - 26, Lines 24 through 2: All information in lines</p> <p>Page 26, Line 23: All information in line after "about"</p> <p>Page 26, Line 25: After "right" and ending with "is confidential"</p>	<p>competitive business interests.</p> <p>§366.093(3)(d), Fla. Stat.</p> <p>The information in question concerns contractual data, the disclosure of which would impair PEF's efforts to contract for goods or services on favorable terms.</p>
<p>Panel Deposition of Pamela R. Murphy, Robert F. Caldwell, Bruce H. Hughes and Samuel S. Waters</p>	<p>Page 31, Lines 11 through 12: After "term was" and ending with "but the additional"</p> <p>Page 31, Line 13: All information in line after "was about"</p> <p>Page 31, Line 21: After "was" and ending with "the"</p> <p>Page 31, Lines 22 through 23: After "was just" and ending with "so to"</p>	<p>§366.093(3)(e), Fla. Stat.</p> <p>The information in question relates to PEF's competitive interests, the disclosure of which would impair PEF's competitive business interests.</p>
<p>Panel Deposition of Pamela R. Murphy, Robert F. Caldwell, Bruce H. Hughes and Samuel S. Waters</p>	<p>Page 42, Lines 8 through 10: After "contract" and ending with "am I correct ?"</p> <p>Page 42, Line 11: All information in line after "(By Ms. Murphy)"</p> <p>Page 42, Lines 12 through 21: After "okay" and ending with "so that's the reason"</p> <p>Pages 42-43, Lines 23 through 8: All information in lines</p>	<p>§366.093(3)(e), Fla. Stat.</p> <p>The information in question relates to PEF's competitive interests, the disclosure of which would impair PEF's competitive business interests.</p> <p>§366.093(3)(d), Fla. Stat.</p> <p>The information in question concerns contractual data, the disclosure of which would impair PEF's efforts to contract for goods or services</p>

DOCUMENTS/RESPONSES	PAGE/LINE	JUSTIFICATION
<p>Panel Deposition of Pamela R. Murphy, Robert F. Caldwell, Bruce H. Hughes and Samuel S. Waters</p>	<p>Pages 43-44, Lines 16 through 5: All information in lines</p> <p>Page 48, Lines 1 through 4: All information in lines</p> <p>Page 48, Lines 9 through 10: All information in lines</p> <p>Page 49, Lines 5 through 8: All information in lines after "confidential"</p> <p>Page 49, Lines 10 through 18: All information in lines</p>	<p>on favorable terms.</p> <p>§366.093(3)(e), Fla. Stat.</p> <p>The information in question relates to PEF's competitive interests, the disclosure of which would impair PEF's competitive business interests.</p>
<p>Panel Deposition of Pamela R. Murphy, Robert F. Caldwell, Bruce H. Hughes and Samuel S. Waters</p>	<p>Pages 49-50, Lines 20 through 6: All information in lines</p> <p>Page 50, Lines 8 through 10: All information in lines</p> <p>Page 50, Line 17: All information in line after "toward that"</p>	<p>§366.093(3)(e), Fla. Stat.</p> <p>The information in question relates to PEF's competitive interests, the disclosure of which would impair PEF's competitive business interests.</p> <p>§366.093(3)(d), Fla. Stat.</p> <p>The information in question concerns contractual data, the disclosure of which would impair PEF's efforts to contract for goods or services on favorable terms.</p>
<p>Panel Deposition of Pamela R. Murphy, Robert F. Caldwell, Bruce H. Hughes and Samuel S. Waters</p>	<p>Page 51, Lines 3 through 11: All information in lines after "I'm wrong"</p> <p>Page 51, Lines 19 through 21: All information in lines after "time period"</p>	<p>§366.093(3)(e), Fla. Stat.</p> <p>The information in question relates to PEF's competitive interests, the disclosure of which would impair PEF's competitive business interests.</p>
<p>Panel Deposition of Pamela R.</p>	<p>Page 63, Line 16: First, second</p>	<p>§366.093(3)(e), Fla. Stat.</p>

DOCUMENTS/RESPONSES	PAGE/LINE	JUSTIFICATION
<p>Murphy, Robert F. Caldwell, Bruce H. Hughes and Samuel S. Waters</p>	<p>and fourth words in line</p>	<p>The information in question relates to PEF's competitive interests, the disclosure of which would impair PEF's competitive business interests.</p>
	<p>Page 63, Line 21: Second and fifth words in line</p>	
	<p>Pages 63-64, Lines 25 through 1: After "going to be" and ending with "however, if"</p>	<p>§366.093(3)(d), Fla. Stat.</p>
	<p>Page 64, Line 3: First and third words in line</p>	<p>The information in question concerns contractual data, the disclosure of which would impair PEF's efforts to contract for goods or services</p>
	<p>Page 64, Line 7: First and second words in line</p>	
	<p>Page 64, Lines 9 through 11: All information in lines ending with "and that"</p>	
	<p>Page 64, Lines 15 through 16: All information in lines after "on FGT"</p>	
	<p>Page 67, Lines 10 through 12: All information in lines ending with "is that"</p>	
	<p>Page 67, Lines 14 through 16: All information in lines ending with "any options"</p>	
	<p>Page 70, Lines 10 through 13: All information in lines after "long term"</p>	
<p>Page 71, Lines 6 through 11: All information in lines after "market"</p>		
<p>Page 72, Line 22: Sixth and ninth words in line</p>		
<p>Page 72, Line 23: First and</p>		



DOCUMENTS/RESPONSES	PAGE/LINE	JUSTIFICATION
	<p>second words in line</p> <p>Page 72, Line 25: Fourth word in line</p> <p>Page 73, Line 3: After “also with” and ending with “had”</p> <p>Page 74, Line 7: Last word in line</p> <p>Page 74, Line 11: Last word in line</p> <p>Page 74, Line 20: Second and third words in line</p> <p>Pages 84-85, Lines 11 through 8: All information in lines after “earlier about”</p> <p>Page 91, Lines 16 through 17: All information in lines after “ratepayers”</p> <p>Page 93, Lines 14 through 16: All information in lines after “contract”</p> <p>Page 94, Lines 13 through 14: All information in lines after “that”</p> <p>Page 94, Lines 17 through 20: After “saying here” and ending with “can you look”</p> <p>Pages 94-95, Lines 22 through 5: After “well” and ending with “just by”</p> <p>Page 95, Lines 7 through 9: All information in lines after “looked at the”</p>	

DOCUMENTS/RESPONSES	PAGE/LINE	JUSTIFICATION
	Page 95, Line 11: After "explicit" and ending with "and"	
	Page 95, lines 14 through 15: All information in lines after "explicitly"	
	Page 95, Line 22: All information in line ending with "because"	
	Page 96, Lines 1 through 3: All information in lines after "yes"	
	Page 97, Lines 17 through 25: All information in lines after "confidential"	
	Page 98, Lines 5 through 7: All information in lines after "contract"	
	Page 98, Lines 8 through 10: After "according to the" and ending with "so it's under"	
	Page 98, Line 13: All information in line after "so"	
	Page 98, line 20: First word in line	
	Page 99, Lines 12 through 15: All information in lines after "August 2004 was"	
	Page 99, Line 18: After "used" and ending with "on the"	
	Page 99, Line 19: After "used" and ending with "and vice"	

DOCUMENTS/RESPONSES	PAGE/LINE	JUSTIFICATION
	Page 99, Line 20: After "FGT" and ending with "when we should"	
	Page 99, Line 21: First word in line	
	Page 100, Lines 3 through 6: All information in lines	
	Page 100, Line 19: First word in line	
	Page 100, Line 21: After "get the" and ending with "number"	
	Page 100, Line 24: First and second word in line	
	Page 101, Line 3: All information in line after "their"	
	Page 101, Line 8: After "from" and ending with "as to what"	
	Page 102, Line 12: First word in line	
	Page 102, Line 16: First word in line	
	Page 102, Line 20: Fourth word in line	
	Page 102, Line 24: All information in line after "than the"	
	Page 102, Line 25: After "allow" and ending with "1	

DOCUMENTS/RESPONSES	PAGE/LINE	JUSTIFICATION
	<p>and 2”</p> <p>Page 103, Lines 4 through 8: All information in lines</p> <p>Pages 103-104, Lines 12 through 5: All information in lines after “the cons”</p> <p>Page 104, Lines 8 through 9: All information in lines</p> <p>Page 104, Line 11: All information in line</p> <p>Page 104, Lines 16 through 20: All information in lines</p> <p>Page 105, Lines 8 through 10: All information in lines</p> <p>Page 105, Lines 13 through 20: All information in lines</p> <p>Page 105, Lines 21 through 22: All information in lines after “okay”</p> <p>Pages 105-106, Lines 24 through 2: All information in lines</p> <p>Page 106, Lines 10 through 11: All information in lines</p> <p>Page 106, Lines 12 through 24: All information in lines after “questions”</p> <p>Page 107, Lines 2 through 16: All information in lines Pages 107-108, Lines 23 through 4: All information in lines</p>	

DOCUMENTS/RESPONSES	PAGE/LINE	JUSTIFICATION
	<p>Page 108, Lines 7 through 24: All information in lines after “document”</p>	
	<p>Page 109, Lines 3 through 19: All information in lines</p>	
	<p>Page 109, Lines 21 through 25: All information in lines after “okay”</p>	
	<p>Page 110, Lines 24 through 25: All information in lines after “was”</p>	
	<p>Page 111, Lines 5 through 8: After “witness Murphy” and ending with “and if I remember”</p>	
	<p>Page 111, Line 14: Seventh word in line</p>	
	<p>Page 111, Line 15: Second word and after “premium of”</p>	
	<p>Page 111, Lines 16 through 18: After “also the” and ending with “which of course”</p>	
	<p>Page 111, Line 20: Third, fourth and fifth word in line</p>	
	<p>Page 111, Line 23: After “I believe” and ending with “also gave”</p>	
	<p>Page 111, Lines 24 through 25: After “once again” and ending with “and I think”</p>	
	<p>Pages 113-114, Lines 19 through 10: All information in</p>	

DOCUMENTS/RESPONSES	PAGE/LINE	JUSTIFICATION
	<p>lines</p> <p>Page 115, Line 6: First word in line</p> <p>Page 115, Line 7: Last word in line</p> <p>Page 117, Lines 18 through 20: After "I think" and ending with "am I"</p> <p>Page 117, Lines 22 through 23: All information in lines after "correct"</p> <p>Page 118, Lines 1 through 4: All information in lines after "words"</p> <p>Page 118, Lines 6 through 12: All information in lines</p> <p>Pages 120-121, Lines 23 through 4: All information in lines</p> <p>Page 121, Lines 13 through 15: All information in lines</p>	
<p>Late Filed Exhibit 3</p>	<p>Forecasted Transco Zone 4 Basis: All information in column after heading "As of 6/30/04"; All information under column headings "LIBOR from 6/3/2004," "Cumulative Escalation from 8/1/2004," "Calendar Year Average Basis (Interrogatory Response #151)"</p>	<p>§366.093(3)(e), Fla. Stat.</p> <p>The information in question relates to PEF's competitive interests, the disclosure of which would impair PEF's competitive business interests.</p> <p>§366.093(3)(d), Fla. Stat.</p> <p>The information in question concerns contractual data, the disclosure of which would</p>

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<p>Errata Sheet for Panel Deposition of Pamela R. Murphy, Robert F. Caldwell, Bruce H. Hughes and Samuel S. Waters</p>	<p>Regarding the question at page 102, lines 18-25 through page 103, line 1: The dollar figure between the words “of” and “and” in numerical bullet point (1) in the revised errata sheet answer, and the date after the word “of” at the end of the second numerical bullet point in the revised errata sheet answer.</p>	<p>impair PEF’s efforts to contract for goods or services</p> <hr/> <p>§366.093(3)(e), Fla. Stat.</p> <p>The information in question relates to PEF’s competitive interests, the disclosure of which would impair PEF’s competitive business interests.</p> <p>§366.093(3)(d), Fla. Stat.</p> <p>The information in question concerns contractual data, the disclosure of which would impair PEF’s efforts to contract for goods or services</p>

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 portions of the transcript of the panel deposition taken on April 19, 2005, and the exhibits to that deposition contain confidential information regarding contracts between PEF and fuel suppliers, as well as confidential information regarding pricing and quantity. 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 portions of the transcript of the panel deposition taken on April 19, 2005, and the exhibits to that deposition, 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 concerning bids or other contractual data, the disclosure of which would impair the efforts of the company to contract for services on favorable terms.” 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.

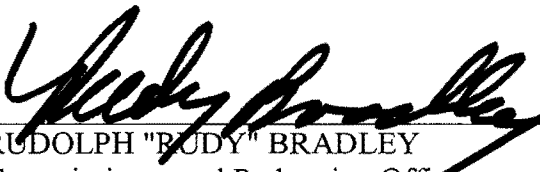
Based on the foregoing, it is

ORDERED by Commissioner Rudolph "Rudy" Bradley, as Prehearing Officer, that Progress Energy Florida, Inc.'s Seventh Request for Confidential Classification of Document Nos. 03936-05, 04110-05, and 04144-05 is granted. It is further

ORDERED that the information in Document Nos. 03936-05, 04110-05, and 04144-05, 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 29th 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.