

BEFORE THE PUBLIC SERVICE COMMISSION

In re: Petition for approval of storm cost recovery clause for recovery of extraordinary expenditures related to Hurricanes Charley, Frances, Jeanne, and Ivan, by Progress Energy Florida, Inc.

DOCKET NO. 041272-EI
ORDER NO. PSC-05-0595-CFO-EI
ISSUED: May 27, 2005

ORDER DENYING REQUEST FOR CONFIDENTIAL CLASSIFICATION
(DOCUMENT NO. 01810-05)

On February 22, 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 the Florida Industrial Power Users Group (FIPUG) witness Sheree L. Brown's direct testimony (Document No. 01810-05).

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 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 prepared direct testimony of Ms. Brown 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 states that it seeks confidential classification of Page 13, Lines 6-12, and Page 15, Lines 4-18, of Ms. Brown's testimony. PEF states that Page 13, Lines 6-12, of Ms. Brown's testimony contains the substance of e-mail exchanges between PEF and its outside accountants. PEF asserts that this information is confidential and should not be publicly disclosed because such disclosure would have a chilling effect on communications between PEF and its accountants. PEF further asserts that disclosure of this information would impair PEF's competitive business interest by obstructing PEF's ability to have open communications with its accountants regarding PEF's business. PEF states that Page 15, Lines 4-18, of Ms. Brown's testimony contains information regarding PEF's projected budgets and budget variances. PEF asserts that this information is proprietary confidential business information that would impair PEF's competitive business interests if it were disclosed to the public, to PEF's suppliers, or to PEF's competitors. PEF contends that if its suppliers or competitors were made aware of PEF's estimated budgets or budget variances, they may adjust their behavior in the marketplace with respect to activities such as pricing and the acquisition and provision of goods, materials, and

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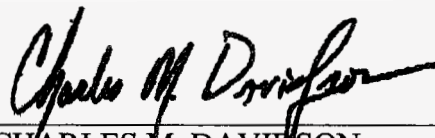
services. PEF states that this information is intended to be and is treated by PEF as private and has not been publicly disclosed.

Upon review, I find that this information is not entitled to treatment as proprietary business information pursuant to Section 366.093(3), Florida Statutes. While the e-mail correspondence between PEF and its accountants referenced on Page 13, Lines 6-12, of Ms. Brown's testimony represents a communication that was intended to be and was treated by PEF and its accountants as private, it does not appear that disclosure of this information would impair PEF's competitive business interests or cause harm to PEF, its ratepayers, or its accountants. The excerpts from budget variance reports referenced on Page 15, Lines 4-18, of Ms. Brown's testimony show the differences between budgeted amounts and actual amounts incurred. The excerpts are derived from PEF's response to OPC's First Request for Production of Documents, Nos. 4 and 5, which were the subject of the Commission's Order Granting Motion for Temporary Protective Order, issued January 20, 2005. Regardless of the temporary protective status of the report itself, the excerpts have been presented in a context that do not reveal any data that would compromise or impair PEF's competitive business interests if disclosed to the public.

Based on the foregoing, it is

ORDERED by Commissioner Charles M. Davidson, as Prehearing Officer, that PEF's Request for Confidential Classification of Document No. 01810-05 is denied, as set forth in the body of this order.

By ORDER of Commissioner Charles M. Davidson, as Prehearing Officer, this 27th day of May, 2005.



CHARLES M. DAVIDSON
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, if issued by a Prehearing Officer; (2) reconsideration within 15 days pursuant to Rule 25-22.060, Florida Administrative Code, if issued by the Commission; or (3) 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.