

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-05-0596-CFO-EI
ISSUED: May 27, 2005

ORDER DENYING REQUEST FOR CONFIDENTIAL CLASSIFICATION
(DOCUMENT NO. 01806-05)

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 Office of Public Counsel (OPC) witness Michael J. Majoros' direct testimony (Document No. 01806-05).

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 Mr. Majoros 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 12, Lines 8-15, of Mr. Majoros' testimony. PEF asserts that this information relates to its estimated budgets and budget variances and 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 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 confidential business information pursuant to Section 366.093(3), Florida Statutes. The information relates to variances for actual and budgeted amounts for certain categories of expenses. Regardless of the confidentiality of the budget report itself, the excerpts contained in

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Mr. Majoros' testimony 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. 01806-05 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

(S E A L)

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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

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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.