

BEFORE THE PUBLIC SERVICE COMMISSION

In re: Petition for approval of two unit power sales agreements with Southern Company Services, Inc. for purposes of cost recovery through capacity and fuel cost recovery clauses, by Progress Energy Florida, Inc.

DOCKET NO. 041393-EI
ORDER NO. PSC-05-0606-CFO-EI
ISSUED: June 1, 2005

ORDER GRANTING REQUEST FOR CONFIDENTIAL CLASSIFICATION
(DOCUMENT NOS. 04887-05 AND 04568-05)

On May 19, 2005, pursuant to Section 366.093, Florida Statutes, and Rule 25-22.006(3), and (4), Florida Administrative Code, Progress Energy Florida, Inc. (PEF) filed a request for confidential classification of certain information provided in responses to Interrogatory Nos. 3 and 6 of Staff's First Set of Interrogatories and of documents produced in response to Staff's First Request for Production of Documents (No.1) (Document Nos. 04887-05 and 04568-05).

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 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 specified information provided in response to Interrogatory Nos. 3 and 6 of Staff's First Set of Interrogatories and Request for Production No. 1 of Staff's First Request for Production of Documents falls 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.

DOCUMENT NUMBER-DATE

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PEF requests that the following information be granted confidential classification:

Document Description	Page No(s)	Line No(s)	Column (s)	Justification
Letter from Southern Company to Florida Power Corporation d/b/a Progress Energy re: Contracts for the Purchase of Capacity	1	31	N/A	§ 366.093(3)(d)(e)
	2	1-2, 5-6, 12-16, 34	N/A	§ 366.093(3)(d)(e)
Letter from Southern Company to Florida Power Corporation d/b/a Progress Energy re: Contracts for the Purchase of Capacity and Energy	3	2, 4, 12-16, 22, 23-25, 33-35	N/A	§ 366.093(3)(d)(e)
	2	3, 4, 5, 10, 22-26, 32, 33-36	N/A	§ 366.093(3)(d)(e)
Progress Energy Florida's Answer to Staff's First Set of Interrogatories (No. 3)	1	4-23, 28-29	N/A	§ 366.093(3)(d)(e)
Progress Energy Florida's Answer to Staff's First Set of Interrogatories (No. 6)	1	8-15, 18-24	N/A	§ 366.093(3)(d)(e)

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 discovery responses at issue contain confidential information regarding the contractual terms associated with the two Unit Power Sales Agreements between PEF and Southern Company. PEF states that public disclosure of this information would provide potential wholesale power suppliers with knowledge of contractual terms that PEF has negotiated. 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 contractual terms. PEF also contends that, without assurances that the confidential terms of contracts will not be publicly disclosed, potential suppliers may be unwilling to contract with PEF. Thus, in order to obtain such contracts, PEF must be able to assure potential suppliers 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 provided in response to Interrogatory Nos. 3 and 6 of Staff's First Set of Interrogatories and Request for Production No. 1 of Staff's First Request for Production of Documents, 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" 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.

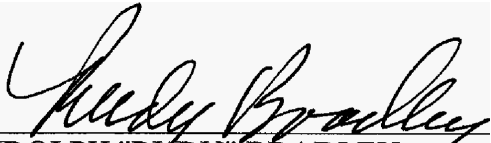
Based on the foregoing, it is

ORDERED by Commissioner Rudolph "Rudy" Bradley, as Prehearing Officer, that Progress Energy Florida, Inc.'s Request for Confidential Classification of Document Nos. 04887-05 and 04568-05 is granted. It is further

ORDERED that the information in Document Nos. 04887-05 and 04568-05, 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 1st day of June, 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, 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.