

BEFORE THE PUBLIC SERVICE COMMISSION

In re: Petition on behalf of Citizens of the State of Florida to require Progress Energy Florida, Inc. to refund customers \$143 million. DOCKET NO. 060658-EI
ORDER NO. PSC-07-0874-CFO-EI
ISSUED: October 31, 2007

ORDER GRANTING PROGRESS ENERGY FLORIDA, INC.'S
REQUEST FOR CONFIDENTIAL CLASSIFICATION
(DOCUMENT NO. 11217-06)

On December 18, 2006, pursuant to Section 366.093, Florida Statutes ("F.S."), and Rule 25-22.006, Florida Administrative Code ("F.A.C."), Progress Energy Florida, Inc. ("PEF") filed a request for confidential classification of portions of its response to Office of Public Counsel's ("OPC") First Set of Interrogatories (Nos. 1-18). Specifically, PEF requests confidential classification for its responses to Interrogatory No. 1(b)(1), Interrogatory No. 1(b)(2), and Interrogatory No. 6 (Document No. 11217-06).

Section 366.093(1), F.S., 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 Section 119.07(1) [the Public Records Act]." Section 366.093(3), F.S., 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), F.S., provides that proprietary confidential business information includes, but is not limited to "[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 its response to OPC's Interrogatory No. 1(b)(1), Interrogatory No. 1(b)(2), and Interrogatory No. 6, falls within these categories, and thus constitutes proprietary confidential business information entitled to protection under Section 366.093, F.S., and Rule 25-22.006, F.A.C. PEF states that this information is intended to be and is treated by PEF as private and has not been publicly disclosed. PEF's specific justification and rationale is set forth in Attachment A to this Order.

DOCUMENT NUMBER-DATE

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In addition, PEF contends that the information identified in Attachment A contains confidential business information regarding competitively negotiated contractual data, such as pricing and quantities of coal, the disclosure of which would impair the efforts of PEF or its affiliates to negotiate coal supply contracts on favorable terms. PEF asserts that it negotiates with potential coal suppliers to obtain competitive contracts for coal options that provide economic value to PEF and its ratepayers. Additionally, PEF asserts that this information relates to the competitive interests of PEF and its coal suppliers and that its disclosure would impair their competitive businesses. PEF states that disclosure of certain third party proprietary information would be contrary to contractual obligations and may impair PEF in future contractual negotiations.

Upon review, the above-referenced information satisfies the criteria set forth in Section 366.093(3), F.S. for classification as proprietary confidential business information and shall be treated as confidential. The information constitutes “[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,” or “[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), F.S., 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), F.S., 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 Katrina J. McMurrian, as Prehearing Officer, that Progress Energy Florida, Inc.’s Request for Confidential Classification of Document No. 11217-06 is granted. It is further

ORDERED that the information in Document No. 11217-06 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 Katrina J. McMurrian, as Prehearing Officer, this 31st day of October, 2007.


KATRINA J. McMURRIAN
Commissioner and Prehearing Officer

(S E A L)

LCB/pz

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), F.S., to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, F.S., 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, F.A.C; 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 Office of Commission Clerk, in the form prescribed by Rule 25-22.060, F.A.C. 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.

DOCUMENT/RESPONSES	PAGE/LINE	JUSTIFICATION
PEF's Response to OPC's First Set of Interrogatories, Question No. 1(b)(1)	Page 3, lower half of the page; four dollar amounts and tonnage amount.	<p>§366.093(3)(d), F.S. 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), F.S. 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>
PEF's Response to OPC's First Set of Interrogatories, Question No. 1(b)(2)	Two-page attachment identified as Attachment 1 to the interrogatory responses; dollar figures and percentages in columns 2 through 7.	<p>§366.093(3)(d), F.S. 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), F.S. 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>

DOCUMENT/RESPONSES	PAGE/LINE	JUSTIFICATION
PEF's Response to OPC's First Set of Interrogatories, Question No. 6	Page 9, middle of the page; two dollar amounts.	<p>§366.093(3)(d), F.S. 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), F.S. 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>