

BEFORE THE PUBLIC SERVICE COMMISSION

In re: Environmental cost recovery clause.

DOCKET NO. 070007-EI  
ORDER NO. PSC-07-0998-CFO-EI  
ISSUED: December 11, 2007

ORDER GRANTING PROGRESS ENERGY FLORIDA INC.'S  
REQUEST FOR CONFIDENTIAL CLASSIFICATION  
(DOCUMENT NO. 09524-07)

On October 17, 2007, 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 information included in the supplemental testimony of PEF witness Thomas Cornell (Document No. 09524-07). PEF argues that the redacted portion of that testimony, which is line 19 on page 2, includes contractual data consisting of the total cost of the contract, as well as the estimate previously provided and for which confidential classification has been granted.

PEF also requests confidential classification for Thomas Cornell's Exhibit No. TC-9, which is a confidential engineering, procurement and construction ("EPC") contract for pollution control projects being constructed at Crystal River Plant Units 4 and 5 as part of the clear air regulatory program originally approved in Order No, PSC-05-0998-PAA-EI. PEF asserts that this contract includes data such as costs, performance specifications and other information related to design, engineering, and equipment procurement. Additionally, PEF states that the EPC contract contains provisions which specifically require the parties to keep the terms of the contracts, any amendments and work authorizations confidential. According to PEF, the information contained in the EPC contract is intended to be and is treated as confidential by PEF and has not been disclosed to the public.

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)(d) and (e), Florida Statutes, 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;" and "[i]nformation relating to competitive interests, the disclosure of which would impair the competitive business of the provider of the information."

Upon review, it appears that the information redacted from page 2, line 19 of the pre-filed supplemental testimony of PEF witness Thomas Cornell, satisfies the criteria set forth in Section 366.093(3), Florida Statutes, for classification as proprietary confidential business

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information and, thus, 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.

Exhibit No. TC-9 to Mr. Cornell’s testimony, the EPC contract, has been returned to PEF. Thus, a grant of confidential status is not necessary.

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 at least 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.

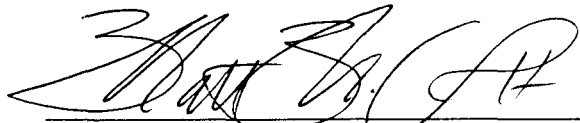
Based on the foregoing, it is

ORDERED by Commissioner Matthew M. Carter II, as Prehearing Officer, that Progress Energy Florida’s Request for Confidential Classification of Document No. 09524-07 is granted as to the information found on line 19, page 2 of the supplemental testimony of witness Cornell. It is further

ORDERED that the information in Document No. 09524-07 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 Matthew M. Carter II, as Prehearing Officer, this 11th day of December, 2007.



MATTHEW M. CARTER II  
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; 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, 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.