

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Environmental cost recovery clause.

DOCKET NO. 080007-EI
ORDER NO. PSC-08-0176-CFO-EI
ISSUED: March 24, 2008

ORDER GRANTING PROGRESS ENERGY FLORIDA, INC.'S
REQUEST FOR CONFIDENTIAL CLASSIFICATION
(DOCUMENT NO. 09424-07)

On October 15, 2007, 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 information included in PEF's responses to Staff's First Set of Interrogatories (Nos. 1-25) in this docket (Document No. 09424-07). PEF contends that its responses to Staff Interrogatory Nos. 3, 5 and 22 contain confidential contractual data and that this information relates to PEF's competitive interests. PEF further states that this information is intended to be and is treated by PEF as confidential and has not been publicly disclosed. PEF's specific justification and rationale is set forth in Attachment A.

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

PEF states that the information regarding project in-service dates includes detailed cost component information. This information underlies other information that has been granted confidential classification by Order No. PSC-07-0676-CFO-EI, issued in this docket on August 21, 2007. PEF contends that either by itself or in conjunction with information previously provided in this docket, the redacted information could be used to identify in-service dates of certain pollution control projects or provides other information from which such in-service dates can be determined. PEF states that information regarding emission allowances, either alone or together with the project in-service date information, could be used to determine when PEF intends to purchase emission allowances and how many purchases PEF plans to make. PEF argues that disclosure of the redacted information concerning allowance market positions could put PEF at a competitive disadvantage in purchasing emission allowances on the market, which could further contribute to price volatility to the detriment of PEF and its customers.

DOCUMENT NUMBER-DATE

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PEF states that information redacted from its response to Interrogatory No. 22 includes final pricing information included in PEF's contracts for various projects included in the Company's Integrated Clean Air Compliance Plan. According to PEF, disclosure of this information would provide potential future contractors with knowledge of prices that PEF has proposed and negotiated. The information would give potential providers significant competitive advantage in future negotiations because they would no longer need to make their best offers to ensure the competitiveness of their rates and other contractual terms. PEF argues that without assurances that the confidential terms of contracts will not be publicly disclosed, potential providers may be unwilling to contract with PEF. In either case, the efforts of PEF and its affiliates to contract for goods and services on favorable terms would be impaired by disclosure of the information.

Upon review, it appears that the information for which PEF requests confidential classification 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 hereby 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. 09424-07 is granted. It is further

ORDERED that the information in Document No. 09424-07 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 Katrina J. McMurrian, as Prehearing Officer, this 24th day of March, 2008.


KATRINA J. McMURRIAN
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; 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.

ATTACHMENT A

PEF requests that the information described in the table below be granted confidential classification:

Document	Page(s)	Line No(s).	Justification
Response to Staff Interrogatory No. 3	All	All	project in-service dates
Response to Staff Interrogatory No. 5	1,2	All	project in-service dates and allowance information
Response to Staff Interrogatory No. 22	9	1-8	contractual information