

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Environmental Cost Recovery Clause.

DOCKET NO. 090007-EI  
ORDER NO. PSC-09-0780-CFO-EI  
ISSUED: November 18, 2009

ORDER GRANTING PROGRESS ENERGY FLORIDA, INC.'S  
REQUEST FOR CONFIDENTIAL CLASSIFICATION  
(DOCUMENT NO. 06820-08)

On August 4, 2008, 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 certain information contained in the prefiled direct testimony of Joseph McCallister (Document No. 06820-08). This request was filed in Docket No. 080007-EI.

Request for Confidential Classification

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. Paragraphs (d) and (e) of Section 366.093(3), F.S., provide 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 contends that the information contained on Page 5, Line 15 of the prefiled testimony of Joseph McCallister falls within this definition and thus constitutes proprietary confidential business information entitled to protection under Section 366.093, F.S., and Rule 25-22.006, F.A.C. Specifically, PEF alleges that Page 5, Line 15 provides the average cost that PEF paid for nitrogen oxide (NOx) emission allowances in 2008. PEF alleges that disclosure of this information would place PEF at a competitive disadvantage when negotiating with NOx allowance suppliers, who would know what PEF had recently agreed to pay for emission allowances. PEF maintains that with this information, suppliers could tailor their prices to remain marginally competitive with prices recently paid by PEF without offering their best prices. PEF therefore alleges that disclosure of the information would impair its efforts to contract for goods or services on favorable terms, and therefore, the information is proprietary confidential business information which is exempt from disclosure. PEF states that this information is intended to be and is treated by PEF as private and has not been publicly disclosed.

DOCUMENT NUMBER-DATE

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FPSC-COMMISSION CLERK

Ruling

Upon review, it appears the information contained on Page 5, Line 15 of Joseph McCallister's prefiled direct testimony is the average price paid for NOx emission allowances in 2008. The information constitutes "[i]nformation relating to competitive interests, the disclosure of which would impair the competitive business of the provider of the information." Moreover, none of the documentation discussed herein contains any information regarding the compensation of PEF executives. Thus, the information identified in Document No. 06820-08 shall be 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 Nathan A. Skop, as Prehearing Officer, that Progress Energy Florida, Inc.'s Request for Confidential Classification of Document No. 06820-08 (Page 5, Line 15 of Joseph McCallister's pre-filed direct testimony) is granted. It is further

ORDERED that the information in Document No. 06820-08 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 Nathan A. Skop, as Prehearing Officer, this 18th day of November, 2009.



NATHAN A. SKOP  
Commissioner and Prehearing Officer

(SEAL)

MCB

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.