

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for increase in rates by Progress
Energy Florida, Inc.

DOCKET NO. 090079-EI
ORDER NO. PSC-10-0084-CFO-EI
ISSUED: February 16, 2010

ORDER GRANTING PROGRESS ENERGY FLORIDA, INC.'S
REQUEST FOR CONFIDENTIAL CLASSIFICATION
(DOCUMENT NO. 09609-09)

On September 16, 2009, pursuant to Section 366.093, Florida Statutes (F.S.), and Rule 25-22.006(3), Florida Administrative Code (F.A.C.), Progress Energy Florida, Inc. (PEF) filed a Request for Confidential Classification of certain documents produced in response to Staff's Twentieth Set of Interrogatories, No. 258 (Document No. 09609-09). This request was filed in Docket No. 090079-EI.

Request for Confidential Classification

Section 366.093(1), F.S., provides that records that the Commission has found to contain proprietary confidential business information shall be kept confidential and shall be exempt from Chapter 119, F.S. 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:

- (e) Information relating to competitive interests, the disclosure of which would impair the competitive business of the provider of the information.

PEF contends that its response to Staff Interrogatory No. 258 falls within this category and, thus, constitutes proprietary confidential business information entitled to protection under Section 366.093, F.S., and Rule 25-22.006(3), 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 further states that it has instituted strict procedures to maintain the confidentiality of the information, including restricting the number of persons who have access to the information.

PEF specifically contends that the information at issue relates to PEF's application for federal grant money under the Recovery Act's Smart Grid Investment Grant Program. PEF asserts the document includes PEF's requested grant amount, as well as its proposed expenditure on the potential project. PEF further asserts disclosure of this information would provide third parties a competitive advantage when responding to future Requests for Proposals associated with the grant proposal and/or in providing or obtaining resources necessary to execute the grant proposal and future smart grid projects. PEF submits that the public disclosure of this information could adversely affect its ability to negotiate future contracts and/or secure required

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resources in moving forward with the proposed projects. PEF therefore alleges that disclosure of this information would have a negative impact on its competitive interests and ultimately have a detrimental impact on its ratepayers.

Ruling

Upon review, it appears the above-referenced information satisfies the criteria set forth in Section 366.093(3), F.S., for classification as proprietary confidential business information. The information constitutes proprietary confidential business information which includes, but is not limited to, information 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. 09609-09, specifically the entirety of PEF's Response to Staff's Twentieth Set of Interrogatories, No. 258 (Bates Stamped pages 09RP-STAFFROG20SUPP-259-000001 through 09RP-STAFFROG20SUP-259-000009), 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. 09609-09 is granted as set forth herein. It is further

ORDERED that the information in Document No. 09609-09 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 16th day of February, 2010.



NATHAN A. SKOP
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 25-22.0376, 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.