

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Fuel and purchased power cost recovery  
clause with generating performance incentive  
factor. | DOCKET NO. 100001-EI  
ORDER NO. PSC-10-0094-CFO-EI  
ISSUED: February 22, 2010

ORDER GRANTING PROGRESS ENERGY FLORIDA, INC.'S REQUEST FOR  
CONFIDENTIAL CLASSIFICATION  
(DOCUMENT NO. 09509-09)

On September 14, 2009, 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 provided in Exhibit MO-2 to Marcia Olivier's prefiled direct testimony, specifically Schedule E-12 – Capacity and Nuclear Costs, Part 3, Page 4 of 8; and certain information on Pages 2 and 3 of the prefiled direct testimony of Joseph McCallister (Document No. 09509-09). This request was filed in Docket No. 090001-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, 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 certain information provided in Exhibit MO-2 to Marcia Olivier's prefiled direct testimony, specifically Schedule E-12 – Capacity and Nuclear Costs, Part 3, Page 4 of 8 and certain information on Pages 2 and 3 of the prefiled direct testimony of Joseph McCallister, as more specifically described in the table in Attachment A, 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 specifically contends that the information in Exhibit MO-2 provides the number of megawatts for each purchase or sale of capacity, which information, in combination with other

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non-confidential cost data provided in the Exhibit, could be used to determine the capacity charges for each contract. PEF alleges the disclosure of this information would enable wholesale providers to determine the prices of their competitors, which could result in greater price convergence in future negotiations, as suppliers would no longer need to make their best offers to ensure the competitiveness of their prices against the disclosed prices. Therefore, PEF contends disclosure of this information would impair the company's efforts to contract for goods or services on favorable terms. PEF further alleges that if the information was disclosed to PEF's competitors, PEF's efforts to obtain competitive energy supplies could be compromised by competitors changing their consumption or purchasing behavior within the relevant markets; as such, PEF alleges the information constitutes "proprietary confidential business information" which is exempt from disclosure under the Public Records Act.

PEF also contends that the information identified on Pages 2 and 3 of Joseph McCallister's prefiled direct testimony provide forecasted hedging percentages. PEF alleges that disclosure of this information would enable fuel suppliers to have insight to PEF's forecasted hedging percentages and to obtain competitive information, which would result in greater price convergence in future negotiations. PEF further alleges fuel suppliers would no longer need to make their best offers to ensure the competitiveness of their prices against the disclosed prices; therefore, disclosure of this information would impair the company's efforts to contract for goods or services on favorable terms. Additionally, PEF contends its efforts to obtain competitive energy supplies could be compromised by competitors changing their consumption or purchasing behavior within the relevant markets; as such, PEF alleges the information constitutes "proprietary confidential business information" which is exempt from disclosure under the Public Records Act.

### 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 "[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." Moreover, none of the documentation discussed herein contains any information regarding the compensation of PEF executives. Thus, the information contained in Document No. 09509-09, as more fully described in Attachment A, 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. 09509-09, as described in attachment A, is granted. It is further

ORDERED that the information in Document No. 09509-09 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 22nd 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 25-22.060, Florida Administrative Code.

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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

Document Description	Page(s) and Line Nos.
Marcia Olivier Direct Testimony Exhibit MO-2, Schedule E-12 – Capacity and Nuclear Costs, Part 3	Page 4 of 8 Lines 13, 14, 16 – 20 Column marked “MW”
Direct Testimony of Joseph McCallister	Percentages specified on: Page 2, Lines 17 and 19 Page 3, Lines 3 and 4