

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-10-0335-CFO-EI  
ISSUED: May 27, 2010

ORDER GRANTING PROGRESS ENERGY FLORIDA, INC.'S  
REQUEST FOR CONFIDENTIAL CLASSIFICATION  
(DOCUMENT NO. 01731-10)

On March 12, 2010, 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 No. WG-3T, specifically Schedule A12 to the direct testimony of Will Garrett filed March 12, 2010. (Document No. 01731-10). This request was filed in Docket No. 100001-EI.

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 (3)(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 Schedule A12 which is part of Exhibit No. WG-3T of the March 12, 2010, direct testimony of Will Garrett 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. The table in Attachment A sets forth more specifically the information requested as confidential. PEF states that this information is intended to be and is treated by PEF as private and has not been publicly disclosed.

PEF states it is requesting confidential classification because the information contains competitive confidential business information of capacity suppliers with which PEF contracts. PEF states that it negotiates with potential capacity suppliers to obtain competitive contracts for capacity purchase options that provide economic value and system reliability to PEF and its ratepayers. According to PEF, it must be able to assure capacity suppliers that sensitive business information, such as the MW purchased and contract terms will be kept confidential. PEF argues that absent such measures, suppliers would run the risk that sensitive business information that they provided in their contracts with PEF would be made available to the public and, as a result,

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end up in possession of potential competitors. PEF concludes that faced with the risk of potential disclosure to competitors, person or companies who would otherwise contract with PEF, might not do so.

PEF also avers that disclosure of the information regarding PEF's capacity purchases could adversely impact PEF's competitive business interests. According to PEF, if such information was disclosed to PEF's competitors, PEF's efforts to obtain competitive capacity purchase options that provide economic value to both PEF and its ratepayers could be compromised by PEF's competitors changing their consumption or purchasing behavior within the relevant markets.

### 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;" or "[i]nformation relating to competitive interests, the disclosure of which would impair the competitive business of the provider of the information." Thus, the information identified in Document No. 01731-10 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. 01731-10, as set forth in Attachment A is granted. It is further

ORDERED that the information in Document No. 01731-10 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 27th day of May, 2010.



NATHAN A. SKOP  
Commissioner and Prehearing Officer

(SEAL)

LCB

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.

ATTACHMENT A

DOCUMENTS	PAGE/LINE	JUSTIFICATION
Exhibit No. WG-3T	Schedule A12: Lines 1-5: MW purchased and contract terms	Section 366.093(3)(d), and (e)