

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Review of Florida Power Corporation's earnings, including effects of proposed acquisition of Florida Power Corporation by Carolina Power & Light.

DOCKET NO. 000824-EI
ORDER NO. PSC-03-0451-PCO-EI
ISSUED: April 1, 2003

ORDER GRANTING PROGRESS ENERGY FLORIDA, INC.'S
UNOPPOSED MOTION FOR TEMPORARY PROTECTIVE ORDER

On March 6, 2003, the Office of Public Counsel (OPC) served its First Set of Interrogatories and its Second Request for Production of Documents to Progress Energy, to which PEF agreed to respond by March 20, 2003. On March 19, 2003, PEF filed an Unopposed Motion for Temporary Protective Order (Motion) related to certain documents responsive to OPC's request.

PEF states that certain of the documents responsive to OPC's discovery contain confidential, proprietary business information relating to pricing terms and conditions of wholesale power purchase and sales contracts between PEF and certain wholesale customers and suppliers. PEF further states it intends to and does treat this information as confidential. PEF therefore requests that the Commission enter an order pursuant to Rule 25-22.006(6)(c), Florida Administrative Code, affording protection of the documents in accordance with the rule. PEF further requests that the Commission also require OPC to provide PEF with notice of its intent to use such confidential documents in a proceeding before the Commission. Finally, PEF states that it has been authorized to represent that OPC has no objection to the granting of the Motion.

Rule 25-223.006(6)(a), Florida Administrative Code, states that "...any utility or other person may request a protective order protecting proprietary confidential business information from discovery." Additionally, Rule 25-22.006(6)(c), Florida Administrative Code, states:

When a utility or other person agrees to allow Public Counsel to inspect or take possession of utility

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information for the purpose of determining what information is to be used in a proceeding before the Commission, the utility may request a temporary protective order exempting the information from section 119.07(1), F.S.

PEF's responses to OPC's First Set of Interrogatories and its Second Request for Production of Documents appear to contain proprietary confidential business information relating to pricing terms and conditions of wholesale power purchase and sales contracts between PEF and certain wholesale customers and suppliers, as defined in Section 366.093, Florida Statutes. Since the material has been or will be provided to the OPC, PEF's request for Temporary Protective Order shall be granted, exempting this information from the requirements of Section 119.07, Florida Statutes.

If OPC plans to use any of the proprietary confidential business information in a Commission proceeding, it shall notify the Prehearing Officer and all parties of record no later than seven days prior to the proceeding in which the information is to be used.


Based on the foregoing, it is

ORDERED by Commissioner Braulio L. Baez, as Prehearing Officer, that Progress Energy Florida, Inc.'s Unopposed Motion for Temporary Protective Order is granted. It is further

ORDERED that if not used in a proceeding before this Commission, the material shall be returned to Progress Energy of Florida, Inc., as required by Rule 25-22.006(6)(c), Florida Administrative Code.

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By ORDER of Commissioner Braulio L. Baez, as Prehearing Officer, this 1st day of April, 2003.

 for Commissioner Braulio L. Baez

BRAULIO L. BAEZ
Commissioner and Prehearing Officer

(S E A L)

JSB

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 Director, Division of the Commission Clerk and Administrative Services, in the form prescribed by Rule 25-22.060,

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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.