

BEFORE THE PUBLIC SERVICE COMMISSION

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

DOCKET NO. 050078-EI
ORDER NO. PSC-05-0802-CFO-EI
ISSUED: August 4, 2005

ORDER GRANTING REQUEST FOR CONFIDENTIAL CLASSIFICATION
(DOCUMENT NO. 07178-05)

On July 27, 2005, pursuant to Section 366.093, Florida Statutes, and Rule 25-22.006, Florida Administrative Code, Progress Energy Florida, Inc. (PEF) filed a request for confidential classification of portions of its supplemental responses to Office of Public Counsel's (OPC) First Request for Production, and portions of its responses to OPC's Sixth Request for Production, as Staff has requested copies of these responses. (Document No. 07178-05).

Section 366.093(1), Florida Statutes, 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 [the Public Records Act]." Section 366.093(3), Florida Statutes, 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), Florida Statutes, provides that proprietary confidential business information includes, but is not limited to "[i]nternal auditing controls and reports of internal auditors" (subsection b); "[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" (subsection d); and "[i]nformation relating to competitive interests, the disclosure of which would impair the competitive business of the provider of the information" (subsection e).

PEF contends that portions of its supplemental response to Request Nos. 71 and 75 in OPC's First Request for Production, and portions of its response to Request Nos. 146, 147, and 148 in OPC's Sixth Request for Production fall within these categories and thus constitutes proprietary confidential business information entitled to protection under Section 366.093, Florida Statutes, and Rule 25-22.006, Florida Administrative Code. PEF states that this information is intended to be and is treated by PEF as private and has not been publicly disclosed.

PEF states that portions of its supplemental response to Request No. 71 contain benchmarking studies conducted by third parties which must be kept confidential pursuant to contractual confidentiality provisions. PEF contends that disclosure of this information may impair its efforts to contract favorably in future negotiations. PEF states that portions of its supplemental response to Request No. 75 contain PEF's projected and estimated figures for short and long term debt, off balance obligations, preferred stock, and common equity, along with other sensitive business information. PEF asserts that if its suppliers or competitors were made

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aware of this information, they may adjust their behavior in the marketplace with respect to activities such as pricing and the acquisition and provision of goods, materials, and services. According to PEF, its competitors may adjust their consumption behavior in the market, potentially making goods and services less available and more expensive to PEF. PEF states that portions of its responses to Request Nos. 146 and 147 contain information concerning internal auditing by PEF. PEF states that portions of its response to Request No. 148 contain confidential tax documents, the disclosure of which may adversely impact PEF's competitive business interests. PEF asserts that these documents contain detailed financial information related to costs and expenses that it incurs as well as details regarding its revenue. According to PEF, if its suppliers and providers were made aware of the tax information, they may decrease supply of certain goods and services, and/or increase the cost and prices of such goods and services. PEF contends that its competitors may adjust their consumption behavior in the market, potentially making goods and services less available and more expensive to PEF.

Upon review, it appears that the above-referenced information contained in portions of PEF's supplemental responses to OPC's First Request for Production and responses to OPC's Sixth Request for Production satisfies the criteria set forth in Section 366.093(3), Florida Statutes, for classification as proprietary confidential business information and, thus, shall be treated as confidential. The information constitutes "[i]nternal auditing controls and reports of internal auditors," "[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." Thus, this information is granted confidential classification.

Pursuant to Section 366.093(4), Florida Statutes, 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), Florida Statutes, unless PEF or another affected person shows, and the Commission finds, that the records continue to contain proprietary confidential business information.

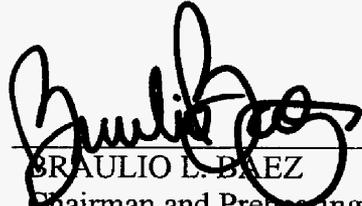
Based on the foregoing, it is

ORDERED by Chairman Braulio L. Baez, as Prehearing Officer, that Progress Energy Florida, Inc's Request for Confidential Classification of Document No. 07178-05 is granted. It is further

ORDERED that the information in Document No. 07178-05 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 Chairman Braulio L. Baez, as Prehearing Officer, this 4th day of August, 2005.



BRAULIO L. BAEZ
Chairman 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, if issued by a Prehearing Officer; (2) reconsideration within 15 days pursuant to Rule 25-22.060, Florida Administrative Code, if issued by the Commission; or (3) 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, 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.