

BEFORE THE PUBLIC SERVICE COMMISSION

In re: Fuel and purchased power cost recovery clause with generating performance incentive factor.      DOCKET NO. 050001-EI  
ORDER NO. PSC-05-0879-CFO-EI  
ISSUED: August 31, 2005

ORDER GRANTING REQUEST FOR CONFIDENTIAL CLASSIFICATION  
(DOCUMENT NO. 06465-05)

On July 8, 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 information included in certain exhibits submitted with its Petition for Approval of Waterborne Transportation Service Contracts (Document No. 06465-05).

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]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 certain exhibits to its Petition for Approval of Waterborne Transportation Service Contracts 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. The specific information for which PEF seeks confidential classification is identified in Attachment A to this Order, which is incorporated herein by reference. PEF states that this information is intended to be and is treated by PEF as private and has not been publicly disclosed.

PEF contends that the information concerns bids and other contractual data related to contracts entered into by PEF's affiliate, Progress Fuels Corporation (PFC), for waterborne coal transportation services provided to PEF. PEF asserts that the information includes contractual terms proposed in PFC's bid solicitations and negotiated in final contracts between PFC and transportation providers. According to PEF, disclosure of this information would provide potential coal transportation providers with knowledge of prices and other contractual terms that PFC has proposed and negotiated. PEF asserts that this knowledge would give potential providers significant competitive advantage in future negotiations because they would no longer need to make their best offers to ensure the competitiveness of their rates and other contractual

DOCUMENT NUMBER-DATE

08345 AUG 31 05

FPSC-COMMISSION CLERK

terms. PEF states that without assurances that the confidential terms of contracts will not be publicly disclosed, potential providers may be unwilling to contract with PFC and PEF. In either case, PEF asserts that the efforts of PEF and its affiliates to contract for goods and services on favorable terms would be impaired by disclosure of the information. PEF further asserts that the information contained in the contracts relates to the competitive interests of PFC and the waterborne coal transportation service providers, the disclosure of which would impair their competitive businesses.

Upon review, it appears that the information in Document No. 06465-05 for which PEF seeks confidential classification, as identified in Attachment A to this Order, 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]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.

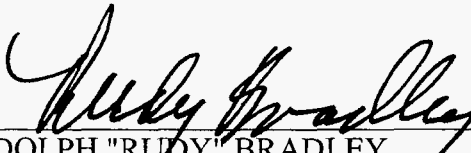
Based on the foregoing, it is

ORDERED by Commissioner Rudolph “Rudy” Bradley, as Prehearing Officer, that Progress Energy Florida, Inc’s Request for Confidential Classification of Document No. 06465-05 is granted. It is further

ORDERED that the information in Document No. 06465-05 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 Commissioner Rudolph "Rudy" Bradley, as Prehearing Officer, this  
31st day of August, 2005.

  
RUDOLPH "RUDY" BRADLEY  
Commissioner and Prehearing Officer

( S E A L )

JAR

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, 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.

**PROGRESS ENGERY FLORIDA  
 Confidentiality Justification**

<b>Exhibit &amp; Description</b>	<b>Page No(s)</b>	<b>Line No(s)</b>	<b>Columns</b>	<b>Statutory Basis</b>
Exhibit C - Dry Bulk Fuel Transportation and Delivery Agreement Between Progress Fuels Corporation (PFC) and AEP MEMCO, LLC	5	1-3	N/A	§366.093(3)(d)(e), Fla. Stat.
	6	1-14	N/A	
	7	1-2	N/A	
	9	1	N/A	
Exhibit D - Progress Fuels Corporation Transloading Bid Solicitation	1	1	N/A	§366.093(3)(d)(e), Fla. Stat.
Exhibit D - Attachment - DRAFT DBF Transfer and Storage Agreement	5	1	N/A	§366.093(3)(d)(e), Fla. Stat.
Exhibit E- DBF Transfer and Storage Agreement between PFC and International Marine Terminals Partnership	1	1	N/A	§366.093(3)(d)(e), Fla. Stat.
	2	1-4	N/A	
	3	1-5	N/A	
	5	1	N/A	
	7	1	N/A	
Exhibit E- Attachment I - IMT Terminal Manual	10	1	N/A	§366.093(3)(d)(e), Fla. Stat.
	12	1	N/A	
	23	1	N/A	
Exhibit E- Attachment II - Vessel Loading Rate Guarantee	3	1	N/A	§366.093(3)(d)(e), Fla. Stat.
Exhibit E- Attachment III - Terminating Services at Tampaplex, Florida	2	1-3	N/A	§366.093(3)(d)(e), Fla. Stat.
Exhibit F- Attachment - DRAFT Affreightment Contract	9	1	N/A	§366.093(3)(d)(e), Fla. Stat.
Exhibit H - Affreightment Contract between PFC and Dixie Fuels Limited	3	1	N/A	§366.093(3)(d)(e), Fla. Stat.
	4	1-2	N/A	
	5	1-2	N/A	
	11	1	N/A	
	14	1-5	A-C	
	14	6-7	C	
Exhibit H - Assist Tug Agreement between PFC and Dixie Fuels Limited	2	1	N/A	§366.093(3)(d)(e), Fla. Stat.
	3	1	N/A	
Exhibit I - Affreightment Contract between PFC and EMI-PA, Inc.	4	1-2	N/A	§366.093(3)(d)(e), Fla. Stat.
	5	1-3	N/A	
	14	1-5	A-C	