

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-05-1090-CFO-EI
ISSUED: November 2, 2005

ORDER GRANTING REQUEST FOR CONFIDENTIAL CLASSIFICATION
(DOCUMENT NO. 10361-05)

On October 25, 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 a chart created by Commission auditors regarding waterborne coal transportation services (Document No. 10361-05).

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 the chart created by Commission auditors falls 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 requests confidential classification for the information listed in the table below:

COLUMN NO.	LINE NO.
S, U, Y	1-8
A-Z	10-16
A, B	18-24

PEF states that this information includes rates for the transportation of waterborne coal deliveries to PEF by Progress Fuels Corporation (PFC) in 2004. PEF asserts that disclosure of

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this information would provide a supplier of alternative rail transportation services with direct knowledge of the transportation rates with which it must compete. PEF contends that this knowledge would give rail transportation suppliers a significant competitive advantage in future contract renewal negotiations. PEF further asserts that disclosure of this information, coupled with publicly available delivered prices of waterborne coal, could be used to calculate the commodity price of coal purchased for PEF. According to PEF, this would give existing and potential coal suppliers a major competitive advantage in bidding for future coal purchases.

Upon review, it appears that the above-referenced information, contained in the chart created by Commission auditors, 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. 10361-05 is granted. It is further

ORDERED that the information in Document No. 10361-05 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
2nd day of November, 2005.



RUDOLPH "RUDY" BRADLEY
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 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.