

BEFORE THE PUBLIC SERVICE COMMISSION

In re: Requirement for investor-owned electric utilities to file ongoing storm preparedness plans and implementation cost estimates.

DOCKET NO. 060198-EI  
ORDER NO. PSC-07-0188-CFO-EI  
ISSUED: February 27, 2007

ORDER GRANTING IN PART AND DENYING IN PART  
PROGRESS ENERGY FLORIDA, INC.'S REQUEST FOR CONFIDENTIAL  
CLASSIFICATION OF DOCUMENT NO. 08991-06

On September 15, 2006, pursuant to Section 366.093, Florida Statutes, and Rule 25-22.006, Florida Administrative Code, Progress Energy Florida, Inc. ("PEF" or company) filed a Notice of Intent to Request Confidential Classification of its response to staff's informal data request nos. 1 and 2 dated September 8, 2006, regarding its integrated vegetation management plan consisting of three spreadsheets (Document No. 08519-06). On September 28, 2006, PEF filed revised spreadsheets marked confidential (Document No. 08991-06) to replace Document No. 08519-06 and Document No. 08519-06 was returned to the company. On October 6, 2006, PEF filed its Request for Confidential Classification of Document No. 08991-06 (Request). By letter dated October 13, 2006, staff informed PEF that the Request was deficient because it did not identify the material for which PEF sought confidential classification by page and line. That deficiency was satisfied by PEF's justification matrix filed November 1, 2006 (Document No. 10085-06).

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 its response to staff's informal data request nos. 1 and 2 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.

DOCUMENT NUMBER - DATE

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FPSC-COMMISSION CLERK

PEF requests that the following information be granted confidential classification:

DOCUMENT/RESPONSES	PAGE/LINE	JUSTIFICATION
<p>PEF's Response to Staff's Informal Data Request Re: IVM, Question No. 1</p>	<p>10-Yr. Tree SAIFE Improvement Analysis (3 yr. backbone/3 yr. lateral), Page 1 of 1, Lines 1-21: SAIFE Improvement Analyses &amp; Costs.</p> <p>10-Yr. Tree SAIFE Improvement Analysis (3 yr. backbone/4 yr. lateral), Page 1 of 1, Lines 1-21: SAIFE Improvement Analyses &amp; Costs.</p> <p>10-Yr. Tree SAIFE Improvement Analysis (3 yr. backbone/5 yr. lateral), Page 1 of 1, Lines 1-21: SAIFE Improvement Analyses &amp; Costs.</p>	<p>§366.093(3)(d), F.S. The document in question contains confidential information, the disclosure of which would impair PEF's efforts to contract for goods or services on favorable terms.</p> <p>§366.093(3)(e), F.S. The document in question contains confidential information relating to competitive business interests, the disclosure of which would impair the competitive business of the provider/owner of the information.</p>
<p>PEF's Response to Staffs Informal Data Request Re: IVM, Question No. 2</p>	<p>PEF Answer to Question No. 2, Page 1 of 1, Lines 1-9: Average cost per mile; incremental costs; and restoration costs.</p>	<p>§366.093(3)(d), F.S. The document in question contains confidential information, the disclosure of which would impair PEF's efforts to contract for goods or services on favorable terms.</p> <p>§366.093(3)(e), F.S. The document in question contains confidential information relating to competitive business interests, the disclosure of which would impair the competitive business of the provider/owner of the information.</p>

PEF states that its response contains confidential business information concerning the amount of lines trimmed, dollars to be spent, and future vegetation management plans, the disclosure of which would impair the Company's competitive business with contractors. Accordingly, such information constitutes "proprietary confidential business information" which is exempt from disclosure under the Public Records Act pursuant to Section 366.093(1), Florida Statutes.

Upon review, it appears that certain portions of Document No. 08991-06 satisfy 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 confidential portions of each of the three spreadsheets that comprise Document No. 08991-06 are as follow:

- 1) Column B, concerning cost per mile for vegetation management activities;
- 2) Sub-rows 1(b) through 9(b) of Columns E through N, concerning annual costs of vegetation management activities; and
- 3) Rows 1 through 10 of Column O (exclusive of the grand cost total at Row 10), concerning subtotal costs for each of the nine activities for each year.

This 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, this information is granted confidential classification.

Column A of the spreadsheets consists of the title of nine vegetation management activities; Column C consists of the miles associated with each activity; Column D is a percentage; and all remaining information pertains to calculating reliability metrics. This information does not qualify as proprietary confidential business information and is open to public inspection. Therefore, PEF's request for confidential classification of these portions of Document No. 08991-06 is denied.

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 Lisa Polak Edgar, as Prehearing Officer, that Progress Energy Florida's Request for Confidential Classification of Document No. 08991-06 is granted in part and denied in part, as set forth in the body of this Order. It is further

ORDERED that the information in Document No. 08991-06 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 Lisa Polak Edgar, as Prehearing Officer, this 27th day of February, 2007.

  
LISA POLAK EDGAR  
Chairman and Prehearing Officer

( S E A L )

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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.