

BEFORE THE PUBLIC SERVICE COMMISSION

In re: Fuel and purchased power cost recovery  
clause with generating performance incentive  
factor.

DOCKET NO. 070001-EI  
ORDER NO. PSC-07-0941-CFO-EI  
ISSUED: November 27, 2007

ORDER GRANTING REQUEST FOR CONFIDENTIAL CLASSIFICATION  
(DOCUMENT NO. 05354-07)

On July 2, 2007, 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 for certain information provided in response to Staff's First Set of Interrogatories (Nos. 1-10) and Staff's First Request for Production of Documents (Nos. 1-6) propounded on PEF, Document No. 05354-07.

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)(d) and (e), 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;" and "[i]nformation relating to competitive interests, the disclosure of which would impair the competitive business of the provider of the information."

PEF contends that information contained in its response to Staff's First Set of Interrogatories (Nos. 1-10) and Staff's First Request for Production of Documents (Nos. 1-6) propounded on PEF 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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PEF requests that the following information described in the table below be granted confidential classification:

<b>DOCUMENT/RESPONSES</b>	<b>PAGE/LINE</b>	<b>JUSTIFICATION</b>
Attachment A – PEF’s Response to Staff’s First Set of Interrogatories, Question No. 1	Volumes and pricing for coal bids received as a result of the 2006 RFP.	<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>
Attachment B –PEF’s Response to Staff’s First Set of Interrogatories, Question No. 4	Terms, volumes and pricing for spot coal bids received for 2006	<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>

DOCUMENT/RESPONSES	PAGE/LINE	JUSTIFICATION
PEF's Response to Staff's First Request for Production of Documents (POD No.2)	Bates No. PEF-07FL-001300: Volumes and pricing of coal bids received in 2006 for 2007, 2008 and 2009.	<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's Response to Staff's First Request for Production of Documents (POD No. 4)	Bates Nos. PEF-07FL-001312 through PEF-07FL-001321: Volumes and pricing of natural gas bids received as a result of 2006 RFP.	<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>

DOCUMENT/RESPONSES	PAGE/LINE	JUSTIFICATION
PEF's Response to Staff's First Request for Production of Documents (POD No. 6)	Bates Nos. PEF-07FL-001334: Volumes and pricing of heavy oil bids received as a result of 2006 RFP.	<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>

Alexander Weintraub, the Director of PEF's Coal Section in the Regulated Fuels Department, stated by sworn affidavit that the material requested to be kept confidential contains sensitive information that has not been publicly disclosed, and that disclosure of this information would impair the company's ability to contract with coal suppliers. An impaired ability to contract with suppliers could have a negative impact upon ratepayers, and would be detrimental to the utility business and the business of its suppliers. Joseph McCallister, PEF's Director of Gas and Oil Trading, states that information contained in his testimony should be classified as confidential as it contains sensitive business information, the disclosure of which would impair the company's efforts to contract for goods or services on favorable terms. He alleges that PEF suppliers would discontinue to do business with PEF if their business information were released as it would end up in the supplier's competitor's possession. McCallister also alleges the disclosure would impair PEF's efforts to obtain competitive fuel supply options that provide economic value to both PEF and its ratepayers because PEF competitors would change their consumption or purchasing behavior within the relevant markets. Mr. McCallister asserts PEF has treated and continues to treat the information as confidential.

Upon review, it appears that certain information provided in response to Staff's First Set of Interrogatories (Nos. 1-10) and Staff's First Request for Production of Documents (Nos. 1-6) propounded on PEF 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 Matthew M. Carter II, as Prehearing Officer, that Progress Energy Florida Inc.’s Request for Confidential Classification of Document No. 05354-07 is granted. It is further

ORDERED that the information in Document No. 05354-07 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 Matthew M. Carter II, as Prehearing Officer, this 27th day of November, 2007.

  
MATTHEW M. CARTER II  
Commissioner 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 Commission Clerk, Office of Commission Clerk, 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.