

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Request for confidential classification of portions of customer data security of Florida's five investor-owned utilities and certain information in staff's audit workpapers, by Progress Energy Florida, Inc.

DOCKET NO. 080061-EI
ORDER NO. PSC-08-0270-CFO-EI
ISSUED: April 30, 2008

ORDER GRANTING PROGRESS ENERGY FLORIDA, INC.'S
AMENDED REQUEST FOR CONFIDENTIAL CLASSIFICATION
(DOCUMENT NO. 10908-07)

On December 12, 2007, pursuant to Section 366.093, Florida Statutes (F.S.), and Rule 25-22.006, Florida Administrative Code (F.A.C.), Progress Energy Florida, Inc. (PEF or company) filed a request for confidential classification for information contained in the Commission's Review of Customer Data Security of Florida's Five Investor-Owned Utilities, PEF's Responses to Data Requests 1 and 2, and certain information contained in staff's audit workpapers (Document No. 10869-07). PEF amended its request on December 13, 2007, and submitted a revised copy of the materials for which it seeks confidential classification. Document No. 10908-07 was assigned to the revised materials, and Document No. 10869-07 will be returned to the company.

Upon review of PEF's request, staff contacted the company to advise it did not believe that page 54, line 25 through the conclusion of the sentence in line 26, and page 57, lines 2 through 5, of the Commission's Review of Customer Data Security of Florida's Five Investor-Owned Utilities contained confidential information. By memorandum dated March 18, 2008, PEF agreed that the information contained on those page and line numbers is not confidential and provided a newly redacted version of those pages to exclude that information from its amended request.

Section 366.093(1), F.S., provides that "any records received by the [C]ommission which are shown and found by the [C]ommission to be proprietary confidential business information shall be kept confidential and shall be exempt from Section 119.07(1) [the Public Records Act]." Section 366.093(3), F.S., 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. Paragraphs (3)(c) and (e) of Section 366.093, F.S., provide that proprietary confidential business information includes, but is not limited to "[s]ecurity measures, systems, or procedures" 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 the information contained in the Commission's Review of Customer Data Security, PEF's Responses to Data Requests 1 and 2, and the staff audit workpapers, as more specifically described in the table in Attachment C to the company's request, excluding

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page 54, line 25 through the conclusion of the sentence in line 26, and page 57, lines 2 through 5, of the Commission's Review of Customer Data Security, falls within these categories and, thus, constitutes proprietary confidential business information entitled to protection under Section 366.093, F.S., and Rule 25-22.006, F.A.C. 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 the information for which it requests confidential classification relates to the company's internal data security processes and security procedures, which if disclosed, could impair the efforts of the company to maintain secure customer and business information. If the information at issue was made public, it could be used to attempt to breach PEF's data security policies and procedures. Moreover, the information at issue relates to sensitive customer information, the disclosure of which could impair data security interests for both PEF and its customers.

Ruling

Upon review, it appears the above-referenced information satisfies the criteria set forth in Section 366.093(3), F.S., for classification as proprietary confidential business information. The information constitutes "[s]ecurity measures, systems, or procedures" and "[i]nformation relating to competitive interests, the disclosure of which would impair the competitive business of the provider of the information." Thus, the information identified in Document No. 10908-07, excluding page 54, line 25 through the conclusion of the sentence in line 26, and page 57, lines 2 through 5, of the Commission's Review of Customer Data Security, shall be granted confidential classification.

Pursuant to Section 366.093(4), F.S., 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), F.S., 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 Katrina J. McMurrian, as Prehearing Officer, that Progress Energy Florida, Inc.'s Amended Request for Confidential Classification of Document No. 10908-07, excluding page 54, line 25 through the conclusion of the sentence in line 26, and page 57, lines 2 through 5, of the Commission's Review of Customer Data Security of Florida's Five Investor-Owned Utilities, is granted. It is further

ORDERED that the information in Document No. 10908-07 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 Katrina J. McMurrian, as Prehearing Officer, this 30th day of April, 2008.


KATRINA J. McMURRIAN
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 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.