

BEFORE THE PUBLIC SERVICE COMMISSION

In re: Petition on behalf of Citizens of the State
of Florida to require Progress Energy Florida,
Inc. to refund customers \$143 million.

DOCKET NO. 060658-EI
ORDER NO. PSC-07-0873-CFO-EI
ISSUED: October 31, 2007

ORDER GRANTING PROGRESS ENERGY FLORIDA, INC.'S
REQUEST FOR CONFIDENTIAL CLASSIFICATION
(DOCUMENT NOS. 00403-07, 00404-07, AND 00405-07)

On January 16, 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") filed a request for confidential classification of portions of each of the following: the prefiled direct testimony of Donna Davis; the prefiled direct testimony and Exhibit No. AWP-6 of Albert W. Pitcher; and the prefiled direct testimony and Exhibit Nos. SAW-4, SAW-7, SAW-8, SAW-9, SAW-12, SAW-13, SAW-14, SAW-15, and SAW-16 of Sasha ("Alexander") Weintraub (Document Nos. 00403-07, 00404-07, and 00405-07).

Section 366.093(1), F.S., 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 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. Section 366.093(3), F.S., 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 the documents at issue fall within these categories and thus constitute 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.

DOCUMENT NUMBER-DATE

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PEF requests that the information more specifically identified in Attachment A to this Order be granted confidential classification. PEF's specific justification and rationale is also set forth in Attachment A.

Prefiled Direct Testimony of Donna Davis

PEF contends that the information identified in Attachment A contains contractual data, bid data concerning coal and transportation costs, and other contractual terms, the disclosure of which would impair the efforts of PEF or its affiliates to negotiate coal supply contracts on favorable terms. PEF asserts that this information also relates to the competitive interests of PEF and its fuel suppliers and that its disclosure would impair the suppliers' competitive businesses. PEF states that disclosure of certain third party proprietary information, provided in the prefiled direct testimony of Donna Davis, would be contrary to contractual obligations and may impair PEF in future contractual negotiations. PEF further states that these coal supply and transportation contracts provide economic value to PEF and its ratepayers.

Prefiled Direct Testimony and Exhibits of Albert W. Pitcher

PEF also states that the information provided in the prefiled direct testimony and exhibit of Albert W. Pitcher contains pricing arrangements between PEF and coal suppliers and that its disclosure would impair PEF and its suppliers' competitive businesses. PEF further asserts that a portion of Mr. Pitcher's testimony contains cost impact information regarding bids submitted in response to PEF's July 2003 Request for Proposal. PEF contends that disclosure of these pricing arrangements and cost impact information would be contrary to contractual obligations and may impair PEF in future contractual negotiations. PEF alleges that the documents contained in the exhibit to Mr. Pitcher's direct testimony were previously granted confidential classification by Order No. PSC-06-0640-CFO-EI, issued July 28, 2006, in Docket No. 060001-EI. PEF asserts that by that order, the Commission granted confidential treatment to the contractual data, the bid data, financial information, and the coal and transportation costs, and found that these records contained proprietary confidential business information, the disclosure of which would impair PEF's competitive business.

Prefiled Direct Testimony and Exhibits of Alexander Weintraub

In addition, PEF asserts that portions of the direct testimony and exhibits of Alexander Weintraub include competitively negotiated contractual data, such as hedging status and pricing guidelines. PEF contends that this information contains proprietary confidential business information, including compliance strategies for the years 2007, 2008, and 2009. PEF further contends that disclosure of certain third party proprietary information would be contrary to contractual obligations and may impair PEF in future contractual negotiations, to the detriment of both PEF and its ratepayers. The exhibits contain cost/benefit analysis and comparison studies conducted regarding specific blends of Powder River Basin coal together with projected transportation costs. PEF claims disclosure of this information would impair its efforts to contract for goods or services on favorable terms. According to PEF, by Order No. PSC-06-0828-CFO-EI, issued October 6, 2006, in Docket No. 060001-EI, and Order No. PSC-07-0109-

CFO-EI, issued February 6, 2007, in Docket No. 070001-EI, the Commission granted confidential classification to the same information that is the subject matter of exhibits SAW-7, SAW-8, SAW-9, SAW-12, SAW-13, SAW-14, SAW-15, and SAW-16, to Mr. Weintraub's direct testimony.

Upon review, the above-referenced material satisfies the criteria set forth in Section 366.093(3), F.S. 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," 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.

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 Request for Confidential Classification of Document Nos. 00403-07, 00404-07, and 00405-07 is granted. It is further

ORDERED that the information in Document Nos. 00403-07, 00404-07, and 00405-07 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 31st day of October, 2007.


KATRINA J. McMURRIAN
Commissioner and Prehearing Officer

(S E A L)

LCB/pz

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), F.S., to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, F.S., 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, F.A.C.; 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, F.A.C. 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.

DOCUMENT/RESPONSES	PAGE/LINE	JUSTIFICATION
Donna Davis direct testimony.	Lines 2, 4-6 and 12 on page 50. Confidential information contained in proprietary business operating agreements with third parties.	§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. §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.
Al Pitcher direct testimony.	Lines 16, 17, 19 and 20 on page 13; cost impact analysis and figures regarding bids submitted in response to PEF's July 2003 RFP.	§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. §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.

DOCUMENT/RESPONSES	PAGE/LINE	JUSTIFICATION
<p>Exhibit AWP-6 to Al Pitcher's direct testimony.</p>	<p>Page 2 of 10 of AWP-6.</p> <p>Price of coal for 2005-2006 coal purchases from Drummond delivered by foreign water.</p> <p>Price of coal for 2005-2006 coal purchases from Central Coal Company delivered by domestic water.</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>Exhibit AWP-6 to Al Pitcher's direct testimony.</p>	<p>Page 3 of 10 of AWP-6.</p> <p>2005-2006 price of delta coal purchased from Massey Energy delivered by domestic rail.</p> <p>2005-2006 price of alpha coal purchased from Massey Energy and B&W Resources delivered by domestic rail.</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>

DOCUMENT/RESPONSES	PAGE/LINE	JUSTIFICATION
Exhibit AWP-6 to Al Pitcher's direct testimony.	Page 5 of 10 of AWP-6. "Attachment A" Purchases from 2005-2006 RFP corrected copy for CR units 1, 2, 4 & 5; last four columns of table listing cash costs and evaluated utilized costs. SO2 Price at bottom of table.	§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. §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.
Exhibit AWP-6 to Al Pitcher's direct testimony.	Page 6 of 10 of AWP-6. "Attachment A" Purchases from 2005-2006 RFP corrected copy for CR units 1, 2, 4 & 5; last four columns of table listing cash costs and evaluated utilized costs. SO2 Price at bottom of table.	§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. §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.

DOCUMENT/RESPONSES	PAGE/LINE	JUSTIFICATION
Alexander Weintraub direct testimony.	Line 1, on page 12 and lines 5-10 on page 14. Coal supply and transportation information.	<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 direct testimony.	Lines 13-14, page 13. Proprietary confidential business information as to future compliance strategies.	<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>

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Alexander Weintraub direct testimony.	Lines 3-4, page 29. Contractual expiration date information.	§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. §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.
Exhibit SAW-4 to Alexander Weintraub's direct testimony.	Charts on pages 3-5 of 6; charts regarding confidential hedging terms, volume and pricing.	§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. §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.

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Exhibit SAW-7 to Alexander Weintraub's direct testimony.	Pages 4-6 of 6. Bates Nos. PEF-FUEL-004629 through PEF-FUEL-004631; PEF Regulated Fuels Dept. Coal Procurement Plan for February 2006 RFP; confidential coal price comparisons, volume targets, transportation assumptions & company business strategies for purchasing compliance & non-compliance coal.	§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. §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.
Exhibit SAW-8 to Alexander Weintraub's direct testimony.	Page 12 of 14. Bates No. PEF-FUEL-001960; price of PRB coal listed twice on page.	§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. §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.

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Exhibit SAW-8 to Alexander Weintraub's direct testimony.	Page 13 of 14. Bates No. PEF-FUEL-001961; Economic factors of burning PRB coal at CR 4; costs in column titled "Crystal River 4."	§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. §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.
Exhibit SAW-9 to Alexander Weintraub's direct testimony.	Page 6 of 14. Bates No. PEF-FUEL-001825; in Assumptions table: two coal prices in column one; one transportation cost in column two; capital investments to burn PRB twice in column three. In the table mid-page, all coal costs in columns 1-4.	§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. §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.

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Exhibit SAW-12 to Alexander Weintraub's direct testimony.	Page 5 of 13. Bates No. PEF-FUEL-001984; delivered coal costs to CR 4 & 5; price of coal on left side of graph.	<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>
Exhibit SAW-13 to Alexander Weintraub's direct testimony.	Pages 5-8 of 12. Bates No. PEF-FUEL-001784-001787; coal cost referenced on first sentence of page.	<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>

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Exhibit SAW-14 to Alexander Weintraub's direct testimony.	Page 4 of 35. Bates No. PEF-FUEL-003197; Sargent & Lundy Report; modification cost for CR 4 & 5; first paragraph, line 1.	§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.
Exhibit SAW-14 to Alexander Weintraub's direct testimony.	Page 5 of 35. Bates No. PEF-FUEL-003198; Sargent & Lundy Report; modification cost for CR 4 & 5; first paragraph, line 1.	§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.
Exhibit SAW-14 to Alexander Weintraub's direct testimony.	Page 6 of 35. Bates No. PEF-FUEL-003199 and 003215-3223; Sargent & Lundy Report; modification cost for CR 4 & 5; first paragraph, line 1.	§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.
Exhibit SAW-14 to Alexander Weintraub's direct testimony.	Pages 23-30 of 35. Bates No. PEF-FUEL- 003215-3223; Sargent & Lundy Report; summary of recommended modifications for CR 4 & 5; entire page confidential.	§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.

DOCUMENT/RESPONSES	PAGE/LINE	JUSTIFICATION
Exhibit SAW-16 to Alexander Weintraub's direct testimony.	Pages 5 of 49. Bates No. PEF-FUEL-003755: Coal Financial Performance Evaluation.	<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>