

BEFORE THE PUBLIC SERVICE COMMISSION

In re: Environmental cost recovery clause.

DOCKET NO. 070007-EI  
ORDER NO. PSC-07-0994-CFO-EI  
ISSUED: December 11, 2007

ORDER GRANTING PROGRESS ENERGY FLORIDA'S  
REQUEST FOR CONFIDENTIAL CLASSIFICATION  
(DOCUMENT NO. 10040-07)

On November 5, 2007, pursuant to Section 366.093, Florida Statutes, and Rule 25-22.006, Florida Administrative Code, Progress Energy Florida (PEF) filed a request for confidential classification of certain documents in connection with its response to Staff's Second Request for Production of Documents in this docket (Document No. 10040-07).

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 certain information provided contains confidential contractual data and relates to PEF's competitive interests, the disclosure of which would impair PEF's competitive business. PEF requests that the following information described in the table below be granted confidential classification:

Document	Page (Bates Number)	Line No(s).	Justification
Fuel Price Forecasts	PEF POD2 - 00001	1-8	366.093(3)(d)
	PEF POD2 - 00002	1-8	
	PEF POD2 - 00003	1-33	
	PEF POD2 - 00004	1-33	
PE - Crystal River SCR & WFGD bid evaluation spreadsheet	PEF POD2 - 00005	All	366.093(3)(e)

DOCUMENT NUMBER-DATE

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Progress Energy Bid Review re: Crystal River FGD & SCR Project – dated October 3, 2007	PEF POD2 - 02156	1-3	366.093(3)(e)
	PEF POD2 - 02157	1-4	
	PEF POD2 - 02158	1-3	
Progress Energy Bid Review re: Crystal River FGD & SCR Project – dated October 3, 2007 Attachment A	PEF POD2 – 02159 PEF POD2 - 02160	1-67	366.093(3)(e)
Progress Energy Bid Review re: Crystal River FGD & SCR Project – dated October 3, 2007 Attachment B	PEF POD2 – 02161 PEF POD2 - 02162	1-28	366.093(3)(e)

PEF asserts that the fuel price forecast information for which it requests confidential treatment includes fuel forecasts used in PEF's analysis of potential clean air regulatory compliance plans. PEF believes that the disclosure of that information would place PEF or its affiliates at a competitive disadvantage when negotiating with fuel suppliers. Disclosure of the fuel forecast information would provide potential fuel suppliers with knowledge of what PEF expects to pay for fuel in the future, and would impair its efforts to contract for goods or services on favorable terms.

PEF asserts that the contractual data for which it requests confidential treatment relates to PEF's evaluation of potential costs and other matters related to the design, engineering, equipment procurement and/or construction contract for air pollution control projects at Progress Energy's Crystal River Plant Units 4 and 5. PEF states that in order to obtain those contracts, PEF must be able to assure its contractors and suppliers that sensitive business information, such as the terms of their bids and related cost information, will be kept confidential. Without the ability to maintain the confidentiality of sensitive information related to contract negotiations between PEF and its contractors and suppliers, its efforts to obtain competitive design and construction contracts could be undermined.

Upon review, it appears that the information outlined in the table above 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," 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), 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.

Fuel Price Forecasts


Based on the foregoing, it is

ORDERED by Commissioner Matthew M. Carter II, as Prehearing Officer, that Progress Energy Florida's Request for Confidential Classification of Document No. 10040-07 is granted. It is further

ORDERED that the information in Document No. 10040-07 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 11th day of December, 2007.

  
MATTHEW M. CARTER II  
Commissioner and Prehearing Officer

( S E A L )

MCB/tfw

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.