

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

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

DOCKET NO. 120001-EI
ORDER NO. PSC-12-0249-CFO-EI
ISSUED: May 22, 2012

ORDER GRANTING PROGRESS ENERGY FLORIDA, INC.'S REQUEST FOR
CONFIDENTIAL CLASSIFICATION
(DOCUMENT NO. 09571-08 X-REF. DOCUMENT NO. 09265-08)

On October 9, 2008, 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 (Request) of certain information submitted by PEF pursuant to Audit Control No. 08-221-2-1 (the Audit). (Document No. 09571-08 x-ref. Document No. 09265-08). The Request was filed in Docket No. 080001-EI. On September 6, 2011, FPL filed a Revised Exhibit C to its Request in Docket No. 110001-EI.

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. Paragraphs (3)(d) and (e) of Section 366.093 F.S., provide 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 the designated portions of the information contained in its responses to the Audits, as more specifically described in the line-by-line/field-by-field justification attached as Revised Exhibit C to the Request, fall 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 avers that it conducts hedging activities and negotiates with potential fuel suppliers to obtain competitive contracts for fuel options that provide economic value to PEF and its ratepayers. PEF relates that it must keep company operations confidential, such as internal hedging practices and procedures, hedging volumes and transactions, journal entries, hedging forecasts, hedging agreements, percentages, hedging gains/losses, credit risk limits, pricing information, and certain information contained in the Risk Management Plans. PEF states that it

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must also be able to assure hedging counterparties and fuel suppliers that sensitive information provided to PEF will be kept confidential. PEF argues that without such measures for the confidential treatment of this information, PEF and its suppliers would run the risk that sensitive business information that they provided would be made available to the public and, as a result, end up in possession of potential competitors. PEF argues that faced with that risk, persons or companies who otherwise would contract with PEF might decide not to do so. PEF concludes that without these measures to maintain confidentiality, its efforts to obtain competitive fuel supply contracts could be undermined. PEF also contends that if the information was disclosed, PEF's efforts to obtain competitive fuel supply options that provide economic value to both PEF and its ratepayers could be compromised by PEF's competitors changing their purchasing behavior within the relevant markets.

Time Period For Confidential Classification

According to Section 366.093(4), F.S., confidential classification may only extend for 18 months from the issuance of an Order granting confidential classification unless "the Commission finds, for good cause, that the protection from disclosure shall be for a specified longer period." PEF has not requested a period longer than the 18 months.

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 "[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, the information identified in Document No. 09571-08 x-ref. Document No. 09265-08 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 Eduardo E. Balbis, as Prehearing Officer, that Progress Energy Florida, Inc.'s Request for Confidential Classification of Document No. 09571-08 x-ref. Document No. 09265-08 is granted. It is further

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ORDERED that the information in Document No. 09571-08 x-ref. Document No. 09265-08 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 will be the only notification by the Commission to the parties concerning the expiration of the confidentiality time period.

By ORDER of Commissioner Eduardo E. Balbis, as Prehearing Officer, this 22nd day of May, 2012.



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Copies furnished: A copy of this document is provided to the parties of record at the time of issuance and, if applicable, interested persons.

LCB

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 25-22.0376, 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.