

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Review of coal costs for Progress Energy  
Florida's Crystal River Units 4 and 5 for 2006  
and 2007.

DOCKET NO. 070703-EI  
ORDER NO. PSC-09-0223-CFO-EI  
ISSUED: April 10, 2009

ORDER GRANTING PROGRESS ENERGY FLORIDA'S  
REQUEST FOR CONFIDENTIAL CLASSIFICATION  
(DOCUMENT NO.01196-08)

On February 15, 2008, pursuant to Section 366.093, Florida Statutes (F.S.), and Rule 25-22.006, Florida Administrative Code (F.A.C.), Progress Energy Florida (PEF) filed a request for confidential classification of certain information provided in PEF's response to Office of Public Counsel's (OPC) Second Request for Production of Documents Nos. 14-24, specifically portions of response to request No. 17 (Document No. 01196-08). This request was filed in Docket No. 070703-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 (d) and (e) of Section 366.093(3), 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 portions of information contained in its response to OPC's Second Request for Production of Document No. 17, as more specifically described in the table in Attachment A, 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.

PEF claims that certain information provided in its response to OPC's Second Request for Production of Document No. 17 contains proprietary confidential business information. Specifically, PEF contends that its response to this request for production contains confidential contractual terms and data regarding contracts between PEF and another party regarding the purchase of a barge unloader coal feed system, the disclosure of which is prohibited by a confidentiality provision in the contract. According to PEF, disclosing the contract would

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violate its terms. In addition, PEF argues that disclosing the contract would adversely impact PEF's competitive business interests if disclosed to the public. PEF asserts that it must be able to assure equipment suppliers that sensitive business information, such as competitively sensitive contracts between two parties, will be kept confidential. Furthermore, PEF asserts that the information at issue contains competitively negotiated contractual data, such as the price of equipment and other contractual terms, the disclosure of which would impair its efforts to negotiate equipment purchases on favorable terms. PEF contends that if other third parties are made aware of the confidential deals and contractual terms that PEF has with other parties, they may offer PEF less competitive contractual terms in future contractual negotiations.

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;" 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. 01196-08 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.

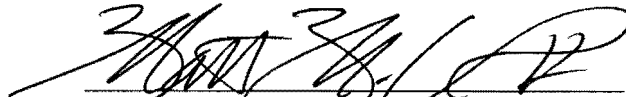
Based on the foregoing, it is

ORDERED by Chairman Matthew M. Carter II, as Prehearing Officer, that Progress Energy Florida's Request for Confidential Classification of Document No. 01196-08 is granted. It is further

ORDERED that the information in Document No. 01196-08 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 shall be the only notification by the Commission to the parties of the date of declassification of the materials discussed herein.

By ORDER of Chairman Matthew M. Carter II, as Prehearing Officer, this 10th day of  
April, 2009.

  
MATTHEW M. CARTER II  
Chairman 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 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.

Attachment A

DOCUMENT DESCRIPTION	DATES STAMPED PAGES
PEF's Response to OPC's Second Request for Production of Documents: No. 17	PEF-CC-001439 through PEF-CC-001524.