

BEFORE THE PUBLIC SERVICE COMMISSION

In re: Environmental cost recovery clause.

DOCKET NO. 040007-EI
ORDER NO. PSC-04-1055-CFO-EI
ISSUED: October 28, 2004

ORDER GRANTING CONFIDENTIALITY TO DOCUMENT NO. 08598-04

BY THE COMMISSION:

On July 17, 2004, when copies of certain portions of staff's working papers obtained or prepared during the "Progress Energy Florida Inc. Environmental Cost Recovery Clause Audit for the Year Ended December 31, 2003," were delivered to Progress Energy Florida (PEF) at the audit exit conference, the utility requested that these materials be temporarily exempted from public access in accordance with the provisions of Rule 25-22.006(3)(a)2., Florida Administrative Code. On July 29, 2004, staff filed Document No. 08247-04 consisting of those specified portions of the staff working papers.

On August 6, 2004, PEF filed a request pursuant to Section 366.093, Florida Statutes, and Rules 25-22.006(3)(a)2. and 4., Florida Administrative Code, seeking confidential classification for selected portions of the working papers prepared by the staff during the audit. The utility's request included redacted copies for public inspection (Document No. 08597-04) and unredacted copies (Document No. 08598-04). Document No. 08598-04 is currently held by the Commission's Division of the Commission Clerk and Administrative Services as confidential pending resolution of PEF's request for confidential classification.

The information for which confidentiality is requested includes contractual data, such as rates, total costs, and other contractual terms related to commodities purchased from, and services rendered by, outside vendors. PEF claims that disclosure of this information would place the company at a competitive disadvantage when negotiating with vendors in the future, and would impair the ability of PEF or its affiliates to contract for goods or services on favorable terms.

Florida law presumes that documents submitted to governmental agencies are public records. The only exceptions to this presumption are the specific statutory exemptions and exemptions granted by governmental agencies pursuant to the specific terms of a statutory provision. This presumption is based on the concept that government should operate in the "sunshine." Rule 25-22.006(4)(c), Florida Administrative Code, provides that it is the Company's burden to demonstrate that the documents fall into a statutory exemption or that the

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information is proprietary confidential business information, the disclosure of which will cause the Company or its ratepayers harm.

Section 366.093(3), Florida Statutes, defines “proprietary confidential business information” as:

[I]nformation, regardless of form or characteristics, which is owned or controlled by the person or company, is intended to be and is treated by the person or company as private in that the disclosure of the information would cause harm to the ratepayers or the person’s or company’s business operations, and has not been disclosed unless disclosed pursuant to a statutory provision, an order of a court or administrative body, or private agreement that provides that the information will not be released to the public.

....

(d) Information 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

....

After reviewing the material identified by PEF, I find that release of this material would reasonably be expected to impair the ability of PEF or its affiliates to contract favorably for goods and services. The material shall be granted confidential classification because it meets the exemption provided by Section 366.093(3)(d), Florida Statutes, for the reasons stated by PEF.

The following table identifies the specific parts of the document for which confidentiality was requested, and the justification for the request. The table shows that confidentiality is granted for each specific request.

Staff Work Paper Number	Description	Page(s)	Line(s)	Ruling	Type of Information Classified Confidential
Documents 08598-04					
10-2/1	Invoices from Viasys Utility Services	1	1-3	Grant	Sensitive contractual information
10-2/1	Invoices from Viasys Utility Services	3	1-3	Grant	Sensitive contractual information
10-2/1	Invoices from Viasys Utility Services	5	1-5	Grant	Sensitive contractual information
10-2/1	Invoices from Viasys Utility Services	7	1-3	Grant	Sensitive contractual information

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Staff Work Paper Number	Description	Page(s)	Line(s)	Ruling	Type of Information Classified Confidential
10-2/1	Invoices from Viasys Utility Services	9	1-3	Grant	Sensitive contractual information
10-16/1-1	Invoices from Pike Electric & Viasys Utility Services	1	1-4	Grant	Sensitive contractual information
10-16/1-1	Invoices from Pike Electric & Viasys Utility Services	3	1-5	Grant	Sensitive contractual information
Documents 08598-04					
10-16/1-1	Invoices from Pike Electric & Viasys Utility Services	6	1-4	Grant	Sensitive contractual information
10-16/1-1	Invoices from Pike Electric & Viasys Utility Services	9	1-4	Grant	Sensitive contractual information
10-16/1-1	Invoices from Pike Electric & Viasys Utility Services	12	1-27	Grant	Sensitive contractual information
10-16/1-1	Invoices from Pike Electric & Viasys Utility Services	13	1-19	Grant	Sensitive contractual information
10-16/1-1	Invoices from Pike Electric & Viasys Utility Services	15	1-27	Grant	Sensitive contractual information
10-16/1-1	Invoices from Pike Electric & Viasys Utility Services	16	1-9	Grant	Sensitive contractual information
10-17/1	Invoices from Viasys Utility Services	1	1-5	Grant	Sensitive contractual information
10-17/1	Invoices from Viasys Utility Services	3	1-3	Grant	Sensitive contractual information
10-17/1	Invoices from Viasys Utility Services	4	1-3	Grant	Sensitive contractual information
10-17/1	Invoices from Viasys Utility Services	5	1-3	Grant	Sensitive contractual information
10-17/1	Invoices from Viasys Utility Services	7	1-8	Grant	Sensitive contractual information
10-17/1	Invoices from Viasys Utility Services	8	1-3	Grant	Sensitive contractual information
10-17/1	Invoices from Viasys Utility Services	10	1-5	Grant	Sensitive contractual information
10-17/1	Invoices from Viasys Utility Services	11	1-3	Grant	Sensitive contractual information
10-17/1	Invoices from Viasys Utility Services	13	1-3	Grant	Sensitive contractual information

Staff Work Paper Number	Description	Page(s)	Line(s)	Ruling	Type of Information Classified
10-17/1	Invoices from Viasys Utility Services	14	1-3	Grant	Confidential Sensitive contractual information
10-17/1	Invoices from Viasys Utility Services	16	1-3	Grant	Sensitive contractual information
10-19/1-1	Qore Inc. Contract	11	1-2	Grant	Sensitive contractual information
10-19/1-1	Qore Inc. Contract	29	1-30	Grant	Sensitive contractual information
10-19/1-1	Qore Inc. Contract	30	1-27	Grant	Sensitive contractual information
10-19/1-1	Qore Inc. Contract	31	1-3	Grant	Sensitive contractual information
10-20/1	Invoice from Pike Electric	1	1-3	Grant	Sensitive contractual information
10-20/1	Invoice from Pike Electric	2	1-9	Grant	Sensitive contractual information
10-25/2	Invoices from Pike Electric	1	1-7	Grant	Sensitive contractual information
10-25/2	Invoices from Pike Electric	4	1-12	Grant	Sensitive contractual information
10-27/1	Contract with Southern Waste Services	2	1-2	Grant	Sensitive contractual information
10-27/1	Contract with Southern Waste Services	3	1	Grant	Sensitive contractual information
10-27/1	Contract with Southern Waste Services	28	1-2	Grant	Sensitive contractual information
10-27/1	Contract with Southern Waste Services	43	1-40	Grant	Sensitive contractual information
10-27/1	Contract with Southern Waste Services	44	1-42	Grant	Sensitive contractual information
10-27/1	Contract with Southern Waste Services	45	1-40	Grant	Sensitive contractual information
10-27/1	Contract with Southern Waste Services	46	1-30	Grant	Sensitive contractual information
10-27/1	Contract with Southern Waste Services	47	1	Grant	Sensitive contractual information
10-27/1	Contract with Southern Waste Services	48	1-15	Grant	Sensitive contractual information
10-27/1	Contract with Southern Waste Services	57	1-2	Grant	Sensitive contractual information
10-27/1	Contract with Southern Waste Services	62	1-3	Grant	Sensitive contractual information
10-27/1	Contract with Southern Waste Services	78	1	Grant	Sensitive contractual information
10-27/1	Contract with Southern Waste Services	80	1-18	Grant	Sensitive contractual information

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Staff Work Paper Number	Description	Page(s)	Line(s)	Ruling	Type of Information Classified
10-27/2	Contract with Viasys	5	1-8	Grant	Confidential Sensitive contractual information
10-27/2	Contract with Viasys	6	1-12	Grant	Sensitive contractual information
10-27/2	Contract with Viasys	7	1-9	Grant	Sensitive contractual information
10-27/2	Contract with Viasys	8	1-20	Grant	Sensitive contractual information
10-27/2	Contract with Viasys	9	1-9	Grant	Sensitive contractual information
10-27/2	Contract with Viasys	10	1-10	Grant	Sensitive contractual information
10-27/2	Contract with Viasys	11	1-12	Grant	Sensitive contractual information
10-27/2	Contract with Viasys	12	1-12	Grant	Sensitive contractual information
10-27/2	Contract with Viasys	13	1-11	Grant	Sensitive contractual information
10-27/2	Contract with Viasys	14	1-6	Grant	Sensitive contractual information
10-27/2	Contract with Viasys	15	1-3	Grant	Sensitive contractual information
10-27/2	Contract with Viasys	16	1-12	Grant	Sensitive contractual information
10-27/2	Contract with Viasys	17	1-14	Grant	Sensitive contractual information
10-27/2	Contract with Viasys	18	1-20	Grant	Sensitive contractual information
10-27/2	Contract with Viasys	23	1	Grant	Sensitive contractual information
10-27/2	Contract with Viasys	30	1-5	Grant	Sensitive contractual information
10-27/2	Contract with Viasys	31	1-4	Grant	Sensitive contractual information
10-27/2	Contract with Viasys	33	1-4	Grant	Sensitive contractual information
10-27/2	Contract with Viasys	34	1-6	Grant	Sensitive contractual information
10-27/2	Contract with Viasys	35	1	Grant	Sensitive contractual information
10-27/2	Contract with Viasys	37	1-8	Grant	Sensitive contractual information
10-27/2	Contract with Viasys	38	1-6	Grant	Sensitive contractual information
10-27/2	Contract with Viasys	39	1-15	Grant	Sensitive contractual information

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Staff Work Paper Number	Description	Page(s)	Line(s)	Ruling	Type of Information Classified Confidential
10-27/2	Contract with Viasys	40	1-16	Grant	Sensitive contractual information
10-27/2	Contract with Viasys	41	1-8	Grant	Sensitive contractual information
10-27/2	Contract with Viasys	42	1-6	Grant	Sensitive contractual information
10-27/2	Contract with Viasys	43	1-21	Grant	Sensitive contractual information
10-27/2	Contract with Viasys	44	1-8	Grant	Sensitive contractual information
10-27/2	Contract with Viasys	45	1-11	Grant	Sensitive contractual information
10-27/2	Contract with Viasys	46	1-10	Grant	Sensitive contractual information
10-27/2	Contract with Viasys	47	1-2	Grant	Sensitive contractual information
10-27/2	Contract with Viasys	48	1-12	Grant	Sensitive contractual information
10-27/2	Contract with Viasys	49	1-14	Grant	Sensitive contractual information
10-27/2	Contract with Viasys	50	1-20	Grant	Sensitive contractual information
10-27/2	Contract with Viasys	51	1-4	Grant	Sensitive contractual information
10-27/2	Contract with Viasys	52	1-4	Grant	Sensitive contractual information
10-27/2	Contract with Viasys	53	1	Grant	Sensitive contractual information
10-27/2	Contract with Viasys	56	1-2	Grant	Sensitive contractual information
10-27/2	Contract with Viasys	58	1-8	Grant	Sensitive contractual information
10-27/2	Contract with Viasys	59	1-6	Grant	Sensitive contractual information
10-27/2	Contract with Viasys	60	1-15	Grant	Sensitive contractual information
10-27/2	Contract with Viasys	61	1-16	Grant	Sensitive contractual information
10-27/2	Contract with Viasys	62	1-8	Grant	Sensitive contractual information
10-27/2	Contract with Viasys	63	1-9	Grant	Sensitive contractual information
10-27/2	Contract with Viasys	64	1-13	Grant	Sensitive contractual information
10-27/2	Contract with Viasys	65	1-11	Grant	Sensitive contractual information

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Staff Work Paper Number	Description	Page(s)	Line(s)	Ruling	Type of Information Classified
10-27/2	Contract with Viasys	66	1-10	Grant	Confidential Sensitive contractual information
10-27/2	Contract with Viasys	67	1-2	Grant	Sensitive contractual information
10-27/2	Contract with Viasys	68	1-12	Grant	Sensitive contractual information
10-27/2	Contract with Viasys	69	1-14	Grant	Sensitive contractual information
10-27/2	Contract with Viasys	70	1-20	Grant	Sensitive contractual information
10-27/2	Contract with Viasys	71	1-4	Grant	Sensitive contractual information
10-27/2	Contract with Viasys	72	1-4	Grant	Sensitive contractual information
10-27/2	Contract with Viasys	74	1-4	Grant	Sensitive contractual information
10-27/2	Contract with Viasys	75	1-2	Grant	Sensitive contractual information
10-27/2	Contract with Viasys	79	1	Grant	Sensitive contractual information
10-27/2	Contract with Viasys	110	1-2	Grant	Sensitive contractual information
10-27/2	Contract with Viasys	112	1-8	Grant	Sensitive contractual information
10-27/2	Contract with Viasys	113	1-4	Grant	Sensitive contractual information
10-27/2	Contract with Viasys	114	1-17	Grant	Sensitive contractual information
10-27/2	Contract with Viasys	115	1-8	Grant	Sensitive contractual information
10-27/2	Contract with Viasys	116	1-13	Grant	Sensitive contractual information
10-27/2	Contract with Viasys	117	1-5	Grant	Sensitive contractual information
10-27/2	Contract with Viasys	118	1-15	Grant	Sensitive contractual information
10-27/2	Contract with Viasys	119	1-8	Grant	Sensitive contractual information
10-27/2	Contract with Viasys	120	1-10	Grant	Sensitive contractual information
10-27/2	Contract with Viasys	121	1-2	Grant	Sensitive contractual information
10-27/2	Contract with Viasys	122	1-12	Grant	Sensitive contractual information
10-27/2	Contract with Viasys	123	1-16	Grant	Sensitive contractual information

Staff Work Paper Number	Description	Page(s)	Line(s)	Ruling	Type of Information Classified
10-27/2	Contract with Viasys	124	1-22	Grant	Confidential Sensitive contractual information
10-27/2	Contract with Viasys	125	1-4	Grant	Sensitive contractual information
10-27/3	Contract with Pike Electric	8	1-6	Grant	Sensitive contractual information
10-27/3	Contract with Pike Electric	9	1-2	Grant	Sensitive contractual information
10-27/3	Contract with Pike Electric	10	1	Grant	Sensitive contractual information
10-27/3	Contract with Pike Electric	11	1-6	Grant	Sensitive contractual information
10-27/3	Contract with Pike Electric	12	1-10	Grant	Sensitive contractual information
10-27/3	Contract with Pike Electric	13	1-21	Grant	Sensitive contractual information
10-27/3	Contract with Pike Electric	14	1-3	Grant	Sensitive contractual information
10-27/3	Contract with Pike Electric	16	1-5	Grant	Sensitive contractual information
10-27/3	Contract with Pike Electric	17	1-2	Grant	Sensitive contractual information
10-27/3	Contract with Pike Electric	18	1-3	Grant	Sensitive contractual information
10-27/3	Contract with Pike Electric	19	1	Grant	Sensitive contractual information
10-27/3	Contract with Pike Electric	21	1	Grant	Sensitive contractual information
10-27/3	Contract with Pike Electric	22	1-2	Grant	Sensitive contractual information
10-27/3	Contract with Pike Electric	24	1-6	Grant	Sensitive contractual information
10-27/3	Contract with Pike Electric	25	1-11	Grant	Sensitive contractual information
10-27/3	Contract with Pike Electric	26	1-9	Grant	Sensitive contractual information
10-27/3	Contract with Pike Electric	27	1	Grant	Sensitive contractual information
10-27/3	Contract with Pike Electric	30	1-2	Grant	Sensitive contractual information
10-27/3	Contract with Pike Electric	31	1-4	Grant	Sensitive contractual information
10-27/3	Contract with Pike Electric	33	1-3	Grant	Sensitive contractual information
10-27/3	Contract with Pike Electric	34	1	Grant	Sensitive contractual information

Staff Work Paper Number	Description	Page(s)	Line(s)	Ruling	Type of Information Classified
10-27/3	Contract with Pike Electric	35	1-2	Grant	Confidential Sensitive contractual information
10-27/3	Contract with Pike Electric	36	1	Grant	Sensitive contractual information
10-27/3	Contract with Pike Electric	37	1-2	Grant	Sensitive contractual information
10-27/3	Contract with Pike Electric	38	1-2	Grant	Sensitive contractual information
10-27/3	Contract with Pike Electric	41	1-2	Grant	Sensitive contractual information
10-27/3	Contract with Pike Electric	43	1	Grant	Sensitive contractual information
10-27/3	Contract with Pike Electric	44	1	Grant	Sensitive contractual information
10-27/4	Contract with Osmose	5	1	Grant	Sensitive contractual information
10-27/4	Contract with Osmose	6	1-8	Grant	Sensitive contractual information
10-27/4	Contract with Osmose	11	1-2	Grant	Sensitive contractual information
10-27/4	Contract with Osmose	14	1-2	Grant	Sensitive contractual information
10-27/4	Contract with Osmose	15	1-9	Grant	Sensitive contractual information
10-27/4	Contract with Osmose	17	1-2	Grant	Sensitive contractual information
10-27/4	Contract with Osmose	18	1	Grant	Sensitive contractual information
10-27/4	Contract with Osmose	20	1	Grant	Sensitive contractual information
10-27/4	Contract with Osmose	22	1-2	Grant	Sensitive contractual information
10-27/4	Contract with Osmose	26	1	Grant	Sensitive contractual information
10-27/4	Contract with Osmose	27	1-8	Grant	Sensitive contractual information
10-27/4	Contract with Osmose	31	1-2	Grant	Sensitive contractual information
10-27/4	Contract with Osmose	32	1-9	Grant	Sensitive contractual information
10-27/4	Contract with Osmose	38	1	Grant	Sensitive contractual information
10-27/4	Contract with Osmose	65	1-2	Grant	Sensitive contractual information
10-27/4	Contract with Osmose	69	1-10	Grant	Sensitive contractual information

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The material shall retain confidential status for 18 months after the issuance of this order, in accordance with Section 366.093(4), Florida Statutes, unless a request to extend the duration of confidential treatment is filed before the 18 month period expires.

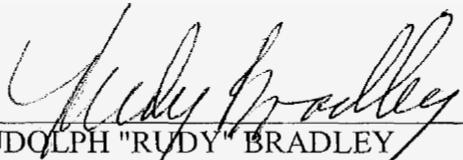
Based on the foregoing, it is

ORDERED by Commissioner Rudolph "Rudy" Bradley, as Prehearing Officer, that Progress Energy Florida's Request for Confidential Classification is granted. It is further

ORDERED that pursuant to Section 366.093(4), Florida Statutes, confidentiality shall expire 18 months from the date of issuance of this order, in the absence of a renewed request for confidentiality. 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 Rudolph "Rudy" Bradley, as Prehearing Officer, this 28th day of October, 2004.



RUDOLPH "RUDY" BRADLEY
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, if issued by a Prehearing Officer; (2) reconsideration within 15 days pursuant to Rule 25-22.060, Florida Administrative Code, if issued by the Commission; or (3) 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 Director, Division of the Commission Clerk and Administrative Services, 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.