

BEFORE THE PUBLIC SERVICE COMMISSION

In re: Petition to increase base rates to recover full revenue requirements of Hines Unit 2 and Unit 4 power plants pursuant to Order PSC-05-0945-S-EI, by Progress Energy Florida, Inc.

DOCKET NO. 070290-EI  
ORDER NO. PSC-07-0674-CFO-EI  
ISSUED: August 21, 2007

ORDER GRANTING PROGRESS ENERGY FLORIDA, INC.'S  
REQUEST FOR CONFIDENTIAL CLASSIFICATION  
(DOCUMENT NO. 03658-07)

On June 1, 2007, pursuant to Section 366.093, Florida Statutes, and Rule 25-22.006, Florida Administrative Code, Progress Energy Florida, Inc. ("PEF") filed a request for confidential classification of Exhibits KM-1 and KM-2 to the prefiled direct testimony of Kevin Murray, dated April 30, 2007 (Document No. 03658-07).

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), 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" (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 Exhibits KM-1 and KM-2 fall within these categories and thus constitute proprietary confidential business information entitled to protection under Section 366.093, Florida Statutes, and Rule 25-22.006, Florida Administrative Code. PEF asserts that the information identified above contains competitive confidential business information regarding negotiations between PEF and third-party design and construction companies. PEF states that it negotiates with potential companies to obtain competitive contracts for options that provide economic value to both PEF and its ratepayers. According to PEF, to obtain such contracts it must be able to assure these companies that the contractual terms will be kept confidential. PEF asserts that disclosure of this confidential contractual data could compromise future negotiations, causing PEF's competitors to change their negotiating behavior within the relevant markets. PEF contends that this information is intended to be and is treated by PEF and its suppliers as private and has not been publicly disclosed.

DOCUMENT NUMBER-DATE

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FPSC-COMMISSION CLERK

PEF requests that the following information be granted confidential classification:

DOCUMENTS	PAGE/LINE	JUSTIFICATION
Exhibit KM-1 to the direct testimony of Kevin Murray; contract for the design and construction of Hines 3 Power Block.	Entire contract.	<p>§366.093(3)(d), Fla. Stat.                      The information in question concerns contractual data, the disclosure of which would impair PEF's efforts to contract for goods or services on favorable terms.</p> <p>§366.093(3)(e), Fla. Stat.                      The information in question relates to PEF's competitive interests, the disclosure of which would impair PEF's competitive business interests.</p>
Exhibit KM-2 to the direct testimony of Kevin Murray; contract for the design and construction of Hines 4 Power Block.	Entire contract.	<p>§366.093(3)(d), Fla. Stat.                      The information in question concerns contractual data, the disclosure of which would impair PEF's efforts to contract for goods or services on favorable terms.</p> <p>§366.093(3)(e), Fla. Stat.                      The information in question relates to PEF's competitive interests, the disclosure of which would impair PEF's competitive business interests.</p>

Upon review, it appears that Exhibits KM-1 and KM-2 satisfy the criteria set forth in Section 366.093(3), Florida Statutes, 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, 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.

Based on the foregoing, it is

ORDERED by Commissioner Matthew M. Carter II, as Prehearing Officer, that Progress Energy Florida, Inc.'s Request for Confidential Classification of Document No. 03658-07 is granted. It is further

ORDERED that the information in Document No. 03658-07 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 21st day of August, 2007.

  
MATTHEW M. CARTER II  
Commissioner and Prehearing Officer

( S E A L )

MCB/pz

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.