

BEFORE THE PUBLIC SERVICE COMMISSION

In re: Petition by Progress Energy Florida, Inc. to recover costs of Crystal River Unit 3 uprate through fuel clause.

DOCKET NO. 070052-EI
ORDER NO. PSC-07-0689-CFO-EI
ISSUED: August 23, 2007

ORDER GRANTING PROGRESS ENERGY FLORIDA INC.'S
REQUEST FOR CONFIDENTIAL CLASSIFICATION
(DOCUMENT NO. 04612-07)

On June 7, 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 portions of its response to the Office of Public Counsel's ("OPC") First Request for Production of Documents, and portions of the attachments responsive to OPC's First Set of Interrogatories (Document No. 04612-07).

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 portions of its response to OPC's First Request for Production of Documents and portions of the attachments responsive to OPC's First Set of Interrogatories 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 states that this information is intended to be and is treated by PEF as private and has not been publicly disclosed.

PEF requests that the following information be granted confidential classification:

DOCUMENTS	PAGE/LINE	JUSTIFICATION
Progress Energy Florida Inc.'s Response to OPC's First Request for Production of Documents.	Bates No. PEF-CR3-0238: All words after "Effective January 1, 2007" and before "Sincerely"	§366.093(3)(d), Fla. Stat. The information in question concerns contractual data, the disclosure of which would

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		<p>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 related to PEF's competitive interests, the disclosure of which would impair PEF's competitive business interests.</p>
	<p>Bates Nos. PEF-CR3-0240 through PEF-CR3-0303: All information on pages.</p>	<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 related to PEF's competitive interests, the disclosure of which would impair PEF's competitive business interests.</p>
	<p>Bates No. PEF-CR-0304: All words after "62" and before "Framatome, ANP, Inc."</p>	<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 related to PEF's competitive interests, the disclosure of which would impair PEF's competitive business interests.</p>

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	<p>Bates Nos. PEF-CR-305 through PEF CR-0336: All information on pages.</p>	<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 related to PEF's competitive interests, the disclosure of which would impair PEF's competitive business interests.</p>
	<p>Bates Nos. PEF-CR3-0337: All words after "Effective September 21, 2006" and before "Progress Energy Service Company, LLC."</p>	<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 related to PEF's competitive interests, the disclosure of which would impair PEF's competitive business interests.</p>
	<p>Bates Nos. PEF-CR3-00338 through PEF-CR-0345: All information on pages.</p>	<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 related to PEF's competitive interests, the disclosure of which would impair PEF's competitive business interests.</p>

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	Bates No. PEF-CR3-0346: All words after "101-659-61" and before "Sincerely."	<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 related to PEF's competitive interests, the disclosure of which would impair PEF's competitive business interests.</p>
	Bates Nos. PEF-CR3-0347 through PEF-CR3-0356: All information on pages.	<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 related to PEF's competitive interests, the disclosure of which would impair PEF's competitive business interests.</p>
	PEF-CR3-0357: All words after "Effective November 30, 2006" to end of page.	<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 related to PEF's competitive interests, the disclosure of which would impair PEF's competitive business interests.</p>

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	Bates Nos. PEF-CR3-0358 through PEF-CR-0363: All information on pages.	<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 related to PEF's competitive interests, the disclosure of which would impair PEF's competitive business interests.</p>
	Bates No. PEF-CR3-0364: All words after "Page 8" and before "Sincerely."	<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 related to PEF's competitive interests, the disclosure of which would impair PEF's competitive business interests.</p>
	Bates Nos. PEF-CR3-0365 through PEF-CR3-0401: All information on pages.	<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 related to PEF's competitive interests, the disclosure of which would impair PEF's competitive business interests.</p>

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	Bates No. PEF-CR3-0403 through PEF-CR3-0442: All information on pages.	<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 related to PEF's competitive interests, the disclosure of which would impair PEF's competitive business interests.</p>
	Bates No. PEF-CR3-0443: All words after "42" and before "Caldon, Inc."	<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 related to PEF's competitive interests, the disclosure of which would impair PEF's competitive business interests.</p>
	Bates No. PEF-CR3-0444 through PEF-CR3-0462: All information on pages.	<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 related to PEF's competitive interests, the disclosure of which would impair PEF's competitive business interests.</p>

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	<p>Bates No. PEF-CR3-0607: All words after "Approximately" and before "system."</p>	<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 related to PEF's competitive interests, the disclosure of which would impair PEF's competitive business interests.</p>
	<p>Bates No. PEF-CR3-0609 through PEF-CR3-0618: All information on page.</p>	<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 related to PEF's competitive interests, the disclosure of which would impair PEF's competitive business interests.</p>
	<p>Bates No. PEF-CR3-0619: Single word after "path." And before "proposal."</p>	<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 related to PEF's competitive interests, the disclosure of which would impair PEF's competitive business interests.</p>

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	<p>Bates No. PEF-CR3-0658: All words after "Approximately" to end of page.</p>	<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 related to PEF's competitive interests, the disclosure of which would impair PEF's competitive business interests.</p>
	<p>Bates No. PEF-CR3-0686 All words after "Approximately" to end of page.</p>	<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 related to PEF's competitive interests, the disclosure of which would impair PEF's competitive business interests.</p>
	<p>Bates No. PEF-CR3-0694: All numbers in row "NSSF", "Fuel", "BOP", "EC/Mod Packages", "Eng Sub Total", "Hardware", "Installation", and "Total."</p>	<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 related to PEF's competitive interests, the disclosure of which would impair PEF's competitive business interests.</p>

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	PEF-CR3-0695: All numbers in columns labeled "Robinson MHrs.", "CR3 MHrs", and "Cost."	<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 related to PEF's competitive interests, the disclosure of which would impair PEF's competitive business interests.</p>
	PEF-CR3-0696: All numbers in columns labeled "Robinson MHrs.", "CR3 MHrs", and "Cost" and all numbers in Row labeled "NSSS Total."	<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 related to PEF's competitive interests, the disclosure of which would impair PEF's competitive business interests.</p>
	PEF-CR3-0697: All numbers in columns labeled "Robinson MHrs.", "CR3 MHrs", and "Cost."	<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 related to PEF's competitive interests, the disclosure of which would impair PEF's competitive business interests.</p>

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	PEF-CR3-0698: All numbers in columns labeled "Robinson MHrs.", "CR3 MHrs", and "Cost."	<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 related to PEF's competitive interests, the disclosure of which would impair PEF's competitive business interests.</p>
	PEF-CR3-0699: All numbers under columns labeled "MHrs." And "Cost."	<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 related to PEF's competitive interests, the disclosure of which would impair PEF's competitive business interests.</p>
	PEF-CR3-0705 through PEF-CR3-0707: All information on pages.	<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 related to PEF's competitive interests, the disclosure of which would impair PEF's competitive business interests.</p>

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	PEF-CR3-0708: All words after "Time and Materials" to end of page.	<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 related to PEF's competitive interests, the disclosure of which would impair PEF's competitive business interests.</p>
	PEF-CR3-0721: All information on page.	<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 related to PEF's competitive interests, the disclosure of which would impair PEF's competitive business interests.</p>
Progress Energy Florida Inc.'s Response to OPC's First Set of Interrogatories (Nos. 1-18).	Attachment 2, Page 1, All information in rows after "Purchases and Other Resources" and before "Total Supply Resources."	<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 related to PEF's competitive interests, the disclosure of which would impair PEF's competitive business interests.</p>

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	Attachment 2, Page 3, All information in rows after "Purchases and Other Resources" and before "Total Supply Resources."	<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 related to PEF's competitive interests, the disclosure of which would impair PEF's competitive business interests.</p>

PEF asserts that portions of the documents responsive to Request Number 2 should be granted confidential classification. PEF states that the request is for confidential contracts between PEF and its nuclear plant contractors. PEF argues that public disclosure of the documents and information would violate confidentiality agreements between PEF and its nuclear plant contractors. PEF alleges disclosure would impair its ability to contract for such services on competitive and favorable terms. PEF states that it negotiates with potential nuclear plant contractors and companies to obtain competitive contracts for nuclear projects. According to PEF, to obtain such contracts it must be able to assure these companies that sensitive business information such as the quantity and pricing terms of their contracts will be kept confidential. PEF concludes that if it were to disclose the information, nuclear plant contractors would run the risk that sensitive business information provided in their contracts with PEF would be made available to the public and, as a result, end up in the possession of potential competitors. Faced with that risk, states PEF, persons or companies may decide not to contract with PEF, thereby undermining its ability to obtain competitive nuclear plant contracts.

PEF also alleges that portions of the attachments responsive to OPC's First Set of Interrogatories should be afforded confidential treatment. The response to Interrogatory 12 provides information regarding the number of megawatts purchased pursuant to contracts with various third parties. PEF asserts that disclosure of such information would allow other parties to discover the prices and quantities of purchased power contracts and would thus impair PEF's ability to contract for such services on competitive and favorable terms.

According to PEF, it negotiates with potential purchased power suppliers to obtain competitive contracts for electric output. PEF alleges that to be able to obtain such contracts, PEF must be able to assure these companies that sensitive business information such as the quantity and pricing terms of their contracts will be kept confidential. PEF argues that without the confidentiality provisions, purchased power suppliers would run the risk that sensitive business information provided in contracts would be made available to the public, and potentially

end up in the possession of competitors. PEF concludes that purchased power suppliers might decide not to contract with it if PEF did not keep those contract terms confidential. Therefore, states PEF, its efforts to obtain competitive power contracts would be undermined.

Finally, PEF alleges that release of the confidential information in PEF's purchased power contracts would adversely impact PEF's competitive business interests. If the information were disclosed to PEF's competitors, states PEF, its ability to obtain competitive purchased power contracting options that provide economic value to both PEF and its ratepayers would be compromised

Upon review, it appears that the above-referenced information satisfies 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 issuance date 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.

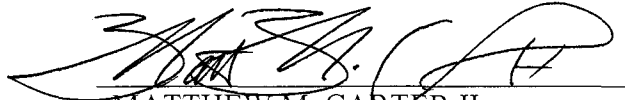
Based on the foregoing, it is

ORDERED by Commissioner Matthew M. Carter II, as Prehearing Officer, that Progress Energy Florida Inc.'s Request for Confidential Classification of Document No. 04612-07 is granted. It is further

ORDERED that the information in Document No. 04612-07, for which confidential classification has been granted, shall remain protected from disclosure for a period of 18 months from the issuance date 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 23rd
day of August, 2007.


MATTHEW M. CARTER II
Commissioner and Prehearing Officer

(S E A L)

LCB/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.