

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Joint petition to amend negotiated contract for firm capacity and energy from qualifying facility between Florida Power Corporation d/b/a Progress Energy Florida, Inc. and Innovative Energy Group of Florida.

DOCKET NO. 070645-EQ  
ORDER NO. PSC-08-0080-CFO-EQ  
ISSUED: February 11, 2008

ORDER GRANTING PROGRESS ENERGY FLORIDA, INC.'S  
REQUEST FOR CONFIDENTIAL CLASSIFICATION  
(DOCUMENT NO. 10062-07)

On November 6, 2007, 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 of certain information provided in amended negotiated contract between PEF and Innovative Energy Group of Florida, LLC (Document No. 10062-07).

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., 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 the information contained within certain sections of the amended negotiated contract between PEF and Innovative Energy Group of Florida, LLC falls 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.

DOCUMENT NUMBER-DATE

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FPSC-COMMISSION CLERK

PEF requests that the following information be granted confidential classification:

DOCUMENT/RESPONSES	PAGE/LINE	JUSTIFICATION
<p>Amended Renewable Energy Contract between PEF and IEG-Florida</p>	<p>Pg. 28 (c) and (f): contract terms, costs, and credit rating information.</p> <p>Pg. 29 (g): letter of credit amounts.</p> <p>Pg. 33 (e) thru (f)(i)(ii): ownership interests, contract terms, and pricing.</p> <p>Pg. 34 (f) (iii) thru (v): pricing terms.</p> <p>Pg. 38 (b)(ii): pricing terms.</p> <p>Pg. 40 Section 12.4(c): environmental costs.</p> <p>Pg. 48 Section 14.6(d): restoration estimate costs.</p> <p>Pg. 50 Section 15.3: claim loss amounts.</p> <p>Pg. 62 Section 18.8: negotiated contract terms.</p> <p>Pg. 62 Section 18.10: negotiated contract terms.</p> <p>Appendix 12.1 "Monthly Capacity Payment Calculation": pricing calculations and terms.</p>	<p>§366.093(3)(d), F.S.          The document in question contains confidential information, the disclosure of which would impair PEF's efforts to contract for goods or services on favorable terms.</p> <p>§366.093(3)(e), F.S.          The document in question contains confidential information relating to competitive business interests, the disclosure of which would impair the competitive business of the provider/owner of the information.</p>

PEF asserts that it negotiates contracts with potential energy suppliers to obtain competitive contracts that provide economic value to PEF and its ratepayers. In order to obtain such contracts, PEF contends that it must be able to assure energy suppliers that sensitive business information will be kept confidential. With respect to the information contained within this Request, PEF has kept confidential and has not publicly disclosed confidential contract terms such as pricing and other competitive information. PEF states that the disclosure of this confidential business information could undermine PEF's competitive contracts and business interests.

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. 10062-07 is 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 Presiding Officer, that Progress Energy Florida Inc.'s Request for Confidential Classification of Document No. 10062-07 is granted. It is further

ORDERED that the information in Document No. 10062-07 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 Chairman Matthew M. Carter II, as Presiding Officer, this 11th day of February, 2008.



MATTHEW M. CARTER II  
Chairman and Presiding 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.