

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for increase in rates by Progress
Energy Florida, Inc.

DOCKET NO. 090079-EI
ORDER NO. PSC-10-0139-CFO-EI
ISSUED: March 10, 2010

ORDER GRANTING PROGRESS ENERGY FLORIDA, INC.'S
REQUEST FOR CONFIDENTIAL CLASSIFICATION
(DOCUMENT NO. 09204-09)

On September 3, 2009, pursuant to Section 366.093, Florida Statutes (F.S.), and Rule 25-22.006(3), Florida Administrative Code (F.A.C.), Progress Energy Florida, Inc. (PEF) filed a Request for Confidential Classification of information contained within documents produced in response to Staff's Sixteenth Request for Production of Documents (PODs) No. 100 and Staff's Twentieth Set of Interrogatories, No. 267 (Document No. 09204-09). This request was filed in Docket No. 090079-EI.

Request for Confidential Classification

Section 366.093(1), F.S., provides that records that the Commission has found to contain proprietary confidential business information shall be kept confidential and shall be exempt from Chapter 119, F.S. 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. Section 366.093(3), F.S., provides that proprietary confidential business information includes, but is not limited to:

- (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.
- (e) Information relating to competitive interests, the disclosure of which would impair the competitive business of the provider of the information.

PEF contends that certain information contained in its response to Staff's POD No. 100 and Staff's Interrogatory No. 267, as specifically detailed in the Table in Attachment A, 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(3), 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 further states that it has instituted strict procedures to maintain the confidentiality of the information, including restricting the number of persons who have access to the information.

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PEF specifically contends that the information at issue relates to pricing arrangements between PEF and third-party vendors. PEF asserts disclosure of this information would impair its ability to contract for similar services in the future. If vendors did not believe that PEF was able to protect their proprietary information, those vendors would be less likely to contract with PEF for its use, or possibly would only enter into similar agreements at a premium price. PEF further asserts that if potential vendors were aware of what PEF was willing to pay for such services, they could artificially adjust their pricing, which would have a detrimental impact on PEF and ultimately its ratepayers.

Ruling

Upon review, it appears the above-referenced information satisfies the criteria set forth in Sections 366.093(3)(d) and (e), F.S., for classification as proprietary confidential business information. The information constitutes proprietary confidential business information which includes, but is not limited to, 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, and information relating to competitive interests, the disclosure of which would impair the competitive business of the provider of the information. Thus, the information contained in Document No. 09204-09, as more specifically described in Attachment A, 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 Commissioner Nathan A. Skop, as Prehearing Officer, that Progress Energy Florida, Inc.'s Request for Confidential Classification of information contained in Document No. 09204-09, as detailed in Attachment A, is granted. It is further

ORDERED that the information in Document No. 09204-09 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 Nathan A. Skop, as Prehearing Officer, this 10th day of March, 2010.



NATHAN A. SKOP
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; 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 25-22.0376, 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/RESPONSES	PAGE/LINE
<p>Response to Staff's 16th Request for Production of Documents No. 100. Document bearing bates number 09RP-STAFFPOD16-100-81.</p>	<p>Numerical figures in last two lines at bottom of page.</p>
<p>Response to Staff's 16th Request for Production of Documents No. 100. Document bearing bates number 09RP-STAFFPOD16-100-82.</p>	<p>Financial figures in first 10 lines at top of page; All information in column titled "Task Level 5 Description (Code)" in lines 24 and 25; Financial figures in lines 34 through 38; All information in column titled "Task Level 5 Description (Code)" in line 39.</p>
<p>Response to Staff's 16th Request for Production of Documents No. 100. Document bearing bates number 09RP-STAFFPOD16-100-83.</p>	<p>All information in column titled "Task Level 5 Description (Code)" in last line at the bottom of the page.</p>
<p>Response to Staff's 16th Request for Production of Documents No. 100. Document bearing bates number 09RP-STAFFPOD16-100-84.</p>	<p>All information in column titled "Task Level 5 Description (Code)" in first two lines at the top of the page.</p>
<p>Response to Staff's 16th Request for Production of Documents No. 100. Document bearing bates number 09RP-STAFFPOD16-100-85.</p>	<p>All information in column titled "Task Level 5 Description (Code)" in lines 21, 22, and 28 through 31.</p>
<p>Response to Staff's 16th Request for Production of Documents No. 100. Document bearing bates number 09RP-STAFFPOD16-100-000085.</p>	<p>All numerical information in top left corner of page; All numerical information on page.</p>
<p>Response to Staff's 16th Request for Production of Documents No. 100. Document bearing bates number 09RP-STAFFPOD16-100-000086 though 09RP-STAFFPOD16-100-000109.</p>	<p>All numerical information in top left corner of page.</p>

DOCUMENT/RESPONSES	PAGE/LINE
Response to Staff's 16th Request for Production of Documents No. 100. Document bearing bates number 09RP-STAFFPOD16-100-000110 through 09RP-STAFFPOD16-100-000114.	All numerical information in top left corner of page; All numerical information on page.
Response to Staff's 16th Request for Production of Documents No. 100. Document bearing bates number 09RP-STAFFPOD16-100-000115 through 09RP-STAFFPOD16-100-000134.	All numerical information in top left corner of page.
Response to Staff's 16th Request for Production of Documents No. 100. Document bearing bates number 09RP-STAFFPOD16-100-000135 through 09RP-STAFFPOD16-100-000139.	All numerical information in top left corner of page; All numerical information on page.
Response to Staff's 16th Request for Production of Documents No. 100. Document bearing bates number 09RP-STAFFPOD16-100-000140 though 09RP-STAFFPOD16-100-000163.	All numerical information in top left corner of page.
Response to Staff's 16th Request for Production of Documents No. 100. Document bearing bates number 09RP-STAFFPOD16-100-000164 though 09RP-STAFFPOD16-100-000168.	All numerical information in top left corner of page; All numerical information on page.
Response to Staff's 16th Request for Production of Documents No. 100. Document bearing bates number 09RP-STAFFPOD16-100-000169 through 09RP-STAFFPOD16-100-000192.	All numerical information in top left corner of page.
Response to Staff's 16th Request for Production of Documents No. 100. Document bearing bates number 09RP-STAFFPOD16-100-000193 through 09RP-STAFFPOD16-100-000196.	All numerical information in top left corner of page; All numerical information on page.
Response to Staff's 16th Request for Production of Documents No. 100. Document bearing bates number 09RP-STAFFPOD16-100-000197 through 09RP-STAFFPOD16-100-000210.	All numerical information on the page.

DOCUMENT/RESPONSES	PAGE/LINE
Response to Staff's 22 Set of Interrogatories No. 267. Document bearing bates number 09RP-STAFFROG22-267-1.	Bullet point (8), first line, numerical figure at the start of the line; Bullet point (8), third line, numerical figure at end of the line; Bullet point (8), fourth line, numerical figure after the fourth word in the line.