

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for Approval of Demand Side  
Management Plan of Progress Energy  
Florida, Inc.

DOCKET NO. 100160-EG  
ORDER NO. PSC-12-0075-CFO-EG  
ISSUED: February 17, 2012

ORDER GRANTING PROGRESS ENERGY FLORIDA, INC.'S  
FIRST REQUEST FOR CONFIDENTIAL CLASSIFICATION  
(DOCUMENT NO. 03889-10)

On May 7, 2010, 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 PEF's Responses to the Florida Industrial Power User's Group's ("FIPUG") First Request for Production of Documents ("POD") Nos. 8c, 8d, and 10 (Document No. 03889-10). This request was filed in Docket No. 100160-EI.

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., provide 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 certain information contained in its responses to FIPUG's 1<sup>st</sup> PODs Nos. 8c, 8d, and 10, as more specifically described 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, 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 established and maintains strict procedures to maintain the confidentiality of the information at issue, including restricting access to the documents, and the information has been and will continue to be treated as confidential.

PEF states that with respect to POD Nos. 8c and 8d, the confidential information includes sensitive business information related to competitively negotiated contractual data, such as pricing and quantities of coal and gas, and to competitively negotiated transportation contracts. PEF avers that the disclosure of this competitive information would impair the efforts of PEF or its affiliates to negotiate coal and gas supply and transportation contracts on favorable terms. PEF also alleges the information relates to the suppliers and providers of the coal, gas, and

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transportation services, and disclosure of the information would impair their competitive businesses as well.

With regard to POD No. 10, PEF states that the documents at issue contain sensitive business information, the disclosure of which would adversely impact its competitive business interests. According to PEF, such information includes cost analysis and studies conducted regarding projected rate impacts of PEF's demand side management ("DSM") plan; budgets; projected earnings; and projected costs. PEF avers that if such information was disclosed to PEF's suppliers or providers, they may adjust their behavior in the marketplace with respect to activity such as pricing and the provision of goods, materials, and services.

### Ruling

Upon review, it appears the information for which PEF requests confidential classification, as specifically identified in the table in Attachment A, 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;" or "[i]nformation 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. 03889-10, as identified in the table 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 Lisa Polak Edgar, as Prehearing Officer, that Progress Energy Florida, Inc.'s Request for Confidential Classification of information contained in Document No. 03889-10, as identified in Attachment A, is granted. It is further

ORDERED that the information in Document No. 03889-10 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 Lisa Polak Edgar, as Prehearing Officer, this 17th  
day of February, 2012.

  
LISA POLAK EDGAR  
Commissioner and Prehearing Officer  
Florida Public Service Commission  
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Copies furnished: A copy of this document is provided to the parties of record at the time of issuance and, if applicable, interested persons.

LDH

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

**PROGRESS ENERGY FLORIDA  
Confidentiality Justification Matrix**

<b>DOCUMENT/RESPONSES</b>	<b>PAGE/LINE</b>	<b>JUSTIFICATION</b>
<p>PEF's Response to FIPUG's 1<sup>st</sup> Request for Production of Documents No. 8c</p>	<p>Bates Nos. PEF-DSM-0000097, Columns D through E, Lines 9-71</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>
<p>PEF's Response to FIPUG's 1<sup>st</sup> Request for Production of Documents No. 8d</p>	<p>Bates Nos. PEF-DSM-0000098, Columns C, H and I, Lines 7-63;</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</p>

<p>PEF's Response to FIPUG's 1<sup>st</sup> Request for Production of Documents No. 10</p>	<p>PEF-DSM- 0000103, Columns D through N, Lines 8-11, 15-19, 22-24, 41-45.</p> <p>PEF-DSM-0000104, Columns D through N, Lines 8-11, 15-19, 22-24, 41-45.</p> <p>PEF-DSM-0000105, Columns AR through BA, Lines 13, 17-20, 23, 27-30, 34-37, 41-44, 49-52, 55, 57.</p> <p>PEF-DSM-0000106, Columns AR through BA, Lines 13, 17-20, 23, 27-30, 34-37, 41-44, 49-52, 55, 57.</p> <p>PEF-DSM-0000111, Columns C through K, Lines 6, 8, 12, 14, 18, 20, 24, 26, 30, 32.</p>	<p>competitive business of the provider/owner of the information.</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>
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