

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Request for confidential classification of portions of review of Code of Ethics Complaint of Progress Energy Florida.	DOCKET NO. 100023-EI ORDER NO. PSC-10-0134-CFO-EI ISSUED: March 8, 2010
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ORDER GRANTING PROGRESS ENERGY FLORIDA, INC.'S REVISED REQUEST FOR CONFIDENTIAL CLASSIFICATION (DOCUMENT 00241-10)

On January 11, 2010, Progress Energy Florida, Inc. ("PEF") filed a Request for Confidential Classification, pursuant to Section 366.093, Florida Statutes (F.S.) and Rule 25-22.006(3), Florida Administrative Code (F.A.C.), concerning information contained in Staff's Investigative Report and associated Interview Summaries regarding a PEF Code of Ethics Complaint, received by the Commission in August, 2009. On March 2, 2010, PEF withdrew two portions of the information included in the request.

PEF's Revised Request for Confidential Classification

PEF states that the information for which it continues to seek confidential classification is "proprietary confidential business information" within the meaning of Section 366.093(3)(e) and (f), F.S., as it is "[i]nformation relating to competitive interests, the disclosure of which would impair the competitive business of the provider of the information" and "[e]mployee personnel information unrelated to compensation, duties, qualifications, or responsibilities." PEF states that this information is intended to be and has been treated as confidential by PEF, and has not been disclosed to the public. PEF further states that it has established and follows strict procedures to maintain the confidentiality of the information, including restricting access to those persons who need the information to assist the company and restricting the number of, and access to, the information and contracts.

PEF alleges that the Investigation Report and the Interview Summaries contain employee personnel information and contractual data. PEF further alleges the disclosure of this information would risk that sensitive employee and business information provided to PEF would be made available to the public, and as a result, end up in the possession of outside companies. PEF states that it hires employees and negotiates outside contracts, and that in order to obtain such employment and outside contracts, PEF must be able to assure employees and contractors that personnel information and contract information will be kept confidential. PEF avers that, faced with the risk of public disclosure, persons or companies who otherwise would contract with PEF might decide not to do so if PEF did not keep employee and contract information confidential. PEF concludes that, without efforts to maintain the confidentiality of sensitive information, the company's efforts to obtain quality employees or other outside contracts could be undermined. In addition, PEF claims that if this information was disclosed, its efforts to obtain quality personnel and contracts that provide economic value to both PEF and ratepayers could be compromised by potential employees changing their behavior within the relevant markets.

DOCUMENT NUMBER-DATE

01566 MAR-8 09

FPSC-COMMISSION OF P.S.

Ruling

Florida law presumes that documents submitted to governmental agencies shall be public records. The only exceptions to this presumption are the specific statutory exemptions provided by law and exemptions granted by governmental agencies pursuant to the specific terms of a statutory provision. Rule 25-22.006(4)(c), F.A.C., provides that it is the company's burden to demonstrate that the documents fall into one of the statutory examples set out in Section 366.093(3), F.S., or to demonstrate that the information is proprietary confidential information, the disclosure of which will cause the company or its ratepayers harm.

Section 366.093(3), F.S., in pertinent part, provides:

Proprietary confidential business information means information, regardless of form or characteristics, which is owned or controlled by the person or company, is intended to be and is treated by the person or company as private in that the disclosure of the information would cause harm to the ratepayers or the person's or company's business operations, and has not been disclosed unless disclosed pursuant to a statutory provision, an order of a court or administrative body, or private agreement that provides that the information will not be released to the public.

Section 366.093(3)(e), F.S., states that proprietary confidential business information includes "[i]nformation relating to competitive interests, the disclosure of which would impair the competitive business of the provider of the information." Section 366.093(3)(f), F.S., states that proprietary confidential business information includes "[e]mployee personnel information unrelated to compensation, duties, qualifications, or responsibilities."

Upon review, I find that the information contained in Document No. 00241-10, as more specifically detailed in Attachment A, appears to be names of employees, names of contractors, and similar types of identifying information. These names are recorded in the context of interviews conducted to determine facts (e.g. who saw/heard/knew what). This information therefore qualifies as proprietary confidential business information pursuant to Section 366.093(3)(e) and (f), F.S., because it consists of "[i]nformation relating to competitive interests, the disclosure of which would impair the competitive business of the provider of the information" and "[e]mployee personnel information unrelated to compensation, duties, qualifications, or responsibilities." None of the documentation discussed herein contains any information regarding the compensation of PEF executives. Accordingly, PEF's request for confidential classification of information contained in Document No. 00241-10, as revised by its March 2, 2010, letter and as detailed in Attachment A, is hereby granted. Further, as provided by Section 366.093(4), F.S., this material shall be granted confidential classification for a period of 18 months.

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 portions of Document 00241-10, as described more fully in Attachment A, is granted. It is further

ORDERED that pursuant to Section 366.093, F.S., and Rule 25-22.006, F.A.C., the confidentiality granted to material specified herein shall expire eighteen (18) months from the date of the issuance of this Order in the absence of a renewed request for confidential treatment pursuant to Section 366.093, F.S. It is further

ORDERED that this Order will be the only notification by the Commission to the parties concerning the expiration of the confidentiality time period. It is further

ORDERED that this docket shall be closed.

By ORDER of Commissioner Nathan A. Skop, as Prehearing Officer, this 8th day of March, 2010.



NATHAN A. SKOP
Commissioner and Prehearing 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.

ATTACHMENT A

<p>Staff Report Investigating PEF's Code of Ethics Complaint</p>	<p>Page 2, third paragraph (under "Company's Description of Events"), Lines 3-5</p>
	<p>Page 2, fourth paragraph (under "Staff's Assessment"), Lines 6-7</p>
<p>Staff's Interview Summaries</p>	<p><u>Interview One</u> Allegation One: three highlighted words.</p>
	<p><u>Interview Two</u> Allegation Two: eight highlighted words. Allegation Three: three highlighted areas.</p>
	<p><u>Interview Three</u> Interview Summary: 17 highlighted words.</p>
	<p><u>Interview Four</u> Interview Summary: one highlighted word.</p>
	<p><u>Interview Five</u> Interview Summary: 31 highlighted areas.</p>
	<p><u>Interview Six</u> Interview Summary: one highlighted area. Allegation One: six highlighted areas. Allegation Two: 36 highlighted areas.</p>
	<p><u>Interview Seven</u> Interview Summary: nine highlighted areas.</p>
	<p><u>Interview Eight</u> Interview Summary: 14 highlighted areas.</p>