

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Fuel and Purchased power) DOCKET NO. 950001-EI
Cost Recovery Clause and) ORDER NO. PSC-95-0498-CFO-EI
Generating Performance Incentive) ISSUED: April 21, 1995
Factor.)
_____)

ORDER GRANTING
FPC'S REQUEST FOR CONFIDENTIAL
TREATMENT OF PORTIONS OF ITS REVISED NOVEMBER 1994. FORMS 423

By Order No. PSC-95-0122-CFO-EI, issued in Docket No. 950001-EI, on January 25, 1995, Florida Power Corporation (FPC) was granted confidential treatment of portions of its Forms 423-1(a), 423-2, 423-2(a), 423-2(b), and 423-2(c) submitted for November 1994. The information contained in FPC's Forms 423-1 and 423-1(a) was, however, incorrect because the information for the wrong month was included on those forms. FPC has, therefore, submitted revised Forms 423-1 and 423-1(a), and requests confidential treatment of certain information in its Form 423-1(a), Document No. 03573-95. The information contained in the original Form 423-1(a), found in Document No. 00718-95, shall, however, retain its confidential status because it is proprietary business information that would have been granted confidential status had it been submitted for the correct month.

FPC argues that the information contained in lines 1, 3, 6-9, 17-18, and 21 of column H, Invoice Price, of Form 423-1(a) identifies the basic component of the contract pricing mechanism. Disclosure of the invoice price, FPC contends, particularly in conjunction with information provided in other columns as discussed below, would enable suppliers to determine the pricing mechanisms of their competitors. A likely result would be greater price convergence in future bidding and a reduced ability on the part of a major purchaser, such as FPC, to bargain for price concessions since suppliers would be reluctant or unwilling to grant concessions that other potential purchasers would expect. FPC also argues that disclosure of lines 1, 3, 6-9, 17-18, and 21 of column I, Invoice Amount, when divided by the figure available in column G, Volume, would also disclose the Invoice Price in column H.

FPC asserts that disclosure of the information in lines 1, 3, 6-9, 17-18 and 21 of column J, Discount, and in the same lines of column M, Quality Adjustment, in conjunction with other information under columns K, L, M, or N, could also disclose the Invoice Price shown in column H by mathematical deduction. In addition, FPC argues that disclosure of the discounts resulting from bargaining

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concessions would impair the ability of FPC to obtain such concessions in the future.

FPC also argues that disclosure of the information under lines 1, 3, 6-9, 17-18 and 21 of columns K, Net Amount; L, Net Price; M, Quality Adjust; or N, Effective Purchase Price, could be used to disclose the Invoice Price in column H, by mathematical deduction. Information contained in column N is particularly sensitive, FPC argues, because it is usually the same as or only slightly different from the Invoice Price in column H.

FPC argues that if the information in lines 1, 3, 6-9, 17-18 and 21 of column P, Additional Transport Charges, was used in conjunction with the information located in the same lines of column Q, Other Charges, it would result in disclosure of the Effective Purchase Price in column N by subtracting the figures from the Delivered Price available in column R. FPC, therefore, concludes that the information contained in columns P and Q is entitled to confidential treatment.

An examination of FPC's revised Form 423-1(a), DN-03573-95, relating to November 1994, shows that it contains confidential information which, if released, could affect the company's ability to contract for fuel on favorable terms. The information contained in this revised Form 423-1(a) has not been disclosed at any time. FPC considers this information to be confidential proprietary business information. The information discussed herein is, therefore, granted confidential classification.

DECLASSIFICATION

Section 366.093(4), Florida Statutes, provides that any finding by the Commission that records contain proprietary confidential business information is effective for a period set by the Commission not to exceed 18 months, unless the Commission finds, for good cause, that protection from disclosure shall be made for a specified longer period. In its original filing for November 1994, FPC requested that the submitted information be granted confidential classification for a 24-month period. FPC was able to demonstrate good cause for the Commission to extend its protection of the identified confidential information from 18 to 24 months. Because Document No. 03573-95 amends the prior filing for November 1994, the information granted confidential treatment herein shall remain protected only for the period granted to the original request by Order No. PSC-95-0122-CFO-EI. Document No. 03573-95 will, therefore, lose its protected status on January 25, 1997.

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In consideration of the foregoing, it is

ORDERED by Commissioner J. Terry Deason, as Prehearing Officer, that Florida Power Corporation's request for confidential classification for portions of DN 03573-95 is granted as set forth in the body of this Order. It is further

ORDERED that this information shall remain protected until January 25, 1997. 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.

By ORDER of Commissioner J. Terry Deason, as Prehearing Officer, this 21st day of April, 1995.



J. TERRY DEASON, Commissioner and
Prehearing Officer

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NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.59(4), 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.

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 25-22.038(2), Florida Administrative Code, if issued by a Prehearing Officer; 2) reconsideration within 15 days pursuant to Rule 25-22.060, Florida Administrative Code, if issued by the Commission; or 3) 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 Director, Division of Records and Reporting, 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.