

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Review of investor-owned electric utilities' risk management policies and procedures.

DOCKET NO. 011605-EI  
ORDER NO. PSC-03-0023-CFO-EI  
ISSUED: January 6, 2003

ORDER GRANTING REQUEST FOR CONFIDENTIAL CLASSIFICATION  
(DOCUMENT NO. 06733-02)

On June 28, 2002, pursuant to Section 366.093, Florida Statutes, and Rule 25-22.006, Florida Administrative Code, Florida Power & Light Company (FPL) filed a request for confidential classification of specified portions of the Commission Staff's audit report entitled "Review of Internal Controls of Florida's Investor-Owned Utilities for Fuel and Wholesale Energy Transactions," dated June 2002, Control No. RR-01-08-004, and specified portions of Staff's notes taken in connection with preparation of the audit report (Document No. 06733-02).

Section 366.093(1), Florida Statutes, 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 [the Public Records Act]." Section 366.093(3), Florida Statutes, 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), Florida Statutes, provides that proprietary confidential business information includes, but is not limited to "[t]rade secrets," "[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."

DOCUMENT NUMBER DATE

00096 JAN-6 2003

FPSC-COMMISSION CLERK

FPL asserts that portions of the information for which it seeks confidential classification comprise excerpts of documents that the Commission has already classified as confidential by Order No. PSC-01-2530-CFO-EI. FPL contends that those excerpts must continue to be protected from disclosure in the manner previously approved. FPL contends that the remainder of the information for which it seeks confidential classification comprises trade secrets of FPL which allow FPL to conduct its fuel procurement on favorable terms for FPL and its customers. FPL asserts that disclosure of that trade secret information would provide other participants in the fuel markets insight into FPL's fuel-procurement practices that would allow them to anticipate FPL's procurement decisions and/or impair FPL's ability to negotiate, to the detriment of FPL and its customers.

The specific information in the audit report for which FPL seeks confidential classification is set forth in the table below:

Page	Line	Description	Justification
1E	7, 8	Excerpts from Policies and Procedures Manual	Order No. PSC-01-2530-CFO-EI
25	34, 35, 36, 37	Excerpts from Policies and Procedures Manual	Order No. PSC-01-2530-CFO-EI
26	1-11, 25, 26, 31, 32	Excerpts from Policies and Procedures Manual	Order No. PSC-01-2530-CFO-EI
27	17-32	Excerpts from Policies and Procedures Manual	Order No. PSC-01-2530-CFO-EI
28	1-34	Excerpts from Policies and Procedures Manual	Order No. PSC-01-2530-CFO-EI
29	1-21	Excerpts from Policies and Procedures Manual; Board Meeting Minutes	Order No. PSC-01-2530-CFO-EI
34	18-31	Excerpts from Dean Study	366.093(3)(a), Florida Statutes (trade secret)
37	3-14	Fuel Procurement Strategy	366.093(3)(a), Florida Statutes (trade secret)
38	23-25, 30-33	Fuel Procurement Strategy	366.093(3)(a), Florida Statutes (trade secret)

Page	Line	Description	Justification
39	11	Fuel Procurement Strategy	366.093(3)(a), Florida Statutes (trade secret)

The specific information in the audit notes for which FPI seeks confidential classification is set forth in the table below:

Page	Line	Description	Justification
2	22, 30-32	Staff Audit Notes	366.093(3)(a), Florida Statutes (trade secret)
3	3-9, 16-18	Staff Audit Notes	366.093(3)(a), Florida Statutes (trade secret)
4	1-9	Staff Audit Notes	Order No. PSC-01-2530-CFO-EI
5	3, 4, 7, 8	Staff Audit Notes	366.093(3)(a), Florida Statutes (trade secret)
7	5-8, 13, 16	Staff Audit Notes	366.093(3)(a), Florida Statutes (trade secret)
8	3-8, 12-14, 17-24, 26, 27, 29, 30	Staff Audit Notes	366.093(3)(a), Florida Statutes (trade secret)
10	18-21, 29-31	Staff Audit Notes	366.093(3)(a), Florida Statutes (trade secret)
11	6-10, 14-16, 27-31	Staff Audit Notes	Order No. PSC-01-2530-CFO-EI; 366.093(3)(a), Florida Statutes (trade secret)
12	17-19, 21	Staff Audit Notes	366.093(3)(a), Florida Statutes (trade secret)
13	33-37	Staff Audit Notes	366.093(3)(a), Florida Statutes (trade secret)
14	5, 7, 24-27, 31	Staff Audit Notes	366.093(3)(a), Florida Statutes (trade secret)
15	15-17	Staff Audit Notes	366.093(3)(a), Florida Statutes (trade secret)
17	1-5, 21, 25-27	Staff Audit Notes	Order No. PSC-01-2530-CFO-EI; 366.093(3)(a), Florida Statutes (trade secret)

Page	Line	Description	Justification
18	7, 8, 13-16	Staff Audit Notes	366.093(3)(a), Florida Statutes (trade secret)
20	12-14, 26-30	Staff Audit Notes	366.093(3)(a), Florida Statutes (trade secret)
22	13-15, 18	Staff Audit Notes	366.093(3)(a), Florida Statutes (trade secret)
23	10, 11	Staff Audit Notes	366.093(3)(a), Florida Statutes (trade secret)
24	1-3, 18-21	Staff Audit Notes	366.093(3)(a), Florida Statutes (trade secret)
25	1	Staff Audit Notes	366.093(3)(a), Florida Statutes (trade secret)
26	5-7, 14-19	Staff Audit Notes	366.093(3)(a), Florida Statutes (trade secret)
27	3, 4, 11, 12	Staff Audit Notes	366.093(3)(a), Florida Statutes (trade secret)
30	4-8	Staff Audit Notes	366.093(3)(a), Florida Statutes (trade secret)

Upon review, it appears that the information in the audit report and audit notes for which FPL seeks confidential classification satisfies the criteria set forth in Section 366.093(3), Florida Statutes, for classification as proprietary confidential business information and, thus, shall be treated as confidential. As noted by FPL, portions of this information were previously granted confidential classification by Order No. PSC-01-2530-CFO-EI, issued December 28, 2001, in Docket No. 020001-EI. While it is not clear whether the remaining information constitutes "trade secrets" as that term is used in Section 366.093(3)(a), Florida Statutes, 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, this information is granted confidential classification.

ORDER NO. PSC-03-0023-CFO-EI  
DOCKET NO. 011605-EI  
PAGE 5

Pursuant to Section 366.093(4), Florida Statutes, 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), Florida Statutes, unless FPL 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 Michael A. Palecki, as Prehearing Officer, that Florida Power & Light Company's Request for Confidential Classification of Document No. 06733-02 is granted. It is further

ORDERED that the information in Document No. 06733-02 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 Michael A. Palecki, as Prehearing Officer, this 6th day of January, 2003.



---

MICHAEL A. PALECKI  
Commissioner and Prehearing Officer

( S E A L )

WCK

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, 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 the Commission Clerk and Administrative Services, 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.