

BEFORE THE PUBLIC SERVICE COMMISSION

In re: Fuel and purchased power cost recovery
clause with generating performance incentive
factor.

DOCKET NO. 060001-EI
ORDER NO. PSC-06-0568-CFO-EI
ISSUED: June 30, 2006

ORDER GRANTING IN PART AND DENYING IN PART
FLORIDA POWER & LIGHT COMPANY'S REQUEST
FOR CONFIDENTIAL CLASSIFICATION
(DOCUMENT NO. 10695-05)

On November 3, 2005, 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 portions of its responses to Staff's First Request for Production of Documents (Document No. 10695-05).

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 "[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" (subsection d), and "[e]mployee personnel information unrelated to compensation, duties, qualification, or responsibilities" (subsection e).

FPL contends that portions of its responses to Staff's First Request for Production of Documents fall within these categories and thus constitute proprietary confidential business information entitled to protection under Section 366.093, Florida Statutes, and Rule 25-22.006, Florida Administrative Code. FPL states that this information is intended to be and is treated by FPL as private and has not been publicly disclosed.

FPL requests confidential classification for the information listed in the table below:

Request No.	PAGE NO.	LINE NO./ COLUMN NO.	FLORIDA STATUTE 366.093(3) Subsection
2	FCR-00017	Line 3	(d), (e)
	FCR-00018	Lines 4-11 Columns A, C, D, E, F	

DOCUMENT NUMBER - DATE

05861 JUN 30 8

FPSC-COMMISSION CLERK

Request No.	PAGE NO.	LINE NO./ COLUMN NO.	FLORIDA STATUTE 366.093(3) Subsection
	FCR-00019	Lines 4-11 Columns A, C, D, E	
	FCR-00021	Lines 2-4; Lines 6-8, Columns C, D	
	FCR-00022	Lines 3-27 Columns B, C, D	
	FCR-00023	Lines 3-25, Columns A, B Lines 1-8, 11-16, 19-24, Column C Lines 3-26, Columns D-L	
	FCR-00024	Lines 3-8, 11-16, 19-24, 26-31 Columns A-I	
	FCR-00025	Lines 1-11	
	FCR-00026 to FCR-00035	All	
	FCR-00036	Lines 2-12	
	FCR-00037	Line 2	
	FCR-00038	Lines 8-10, 12, 13	
	FCR-00039	Lines 5-8, Column B Lines 9-11 Lines 12-15, Column B	

Request No.	PAGE NO.	LINE NO./ COLUMN NO.	FLORIDA STATUTE 366.093(3) Subsection
		Lines 16-17	
	FCR-00040	Lines 4-9, 12-17, 20-25, 27-34, Columns A-J	
3	176 (Tabs 1-10)	All	(d), (e)
6	FCR-00375 to FCR-00379	All	(d), (e)
	FCR-00133 to FCR-00150	All	
7	FCR-00133 to FCR-00150	All	(d), (e)

FPL states that the responses contain information relating to its policies and procedures, 2005 Hurricane Response Plan, power plant budgets and performance objectives, and unplanned outages. FPL contends that disclosure of this information would impair its ability to contract on favorable terms. Also, according to FPL, disclosure of this information would impair its competitive interests.

Upon review, it appears that a portion of the above-referenced information, contained in FPL's responses to Staff's First Request for Production of Documents, 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. Specifically excluded from confidential classification is the response to Staff's Request for Production of Documents (No. 3) – Parts 1 through 6, 9, and 10. These pages contain generic information regarding FPL's pre-hurricane and post-hurricane plans. They do not reflect information containing bids or other contractual data or information relating to competitive interests nor do they include employee personnel information. In addition, the response to Staff's Request for Production of Documents (No. 6) – pages 380-386 and 436. These pages contain generic information regarding FPL's nuclear units. They do not reflect information containing bids or other contractual data or information relating to competitive interests nor do they include employee personnel information. As such, this information specifically excluded herein shall not be approved confidential treatment. The remaining 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 "[e]mployee personnel information unrelated to compensation, duties, qualification, or responsibilities." Thus, this information is granted confidential classification.

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 Matthew M. Carter II, as Prehearing Officer, that Florida Power & Light Company's Request for Confidential Classification of Document No. 10695-05 is granted in part and denied in part as discussed above. It is further

ORDERED that the information in Document No. 10695-05 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 Matthew M. Carter II, as Prehearing Officer, this 30th day of June, 2006.



MATTHEW M. CARTER II
Commissioner and Prehearing Officer

(S E A L)

LCB/pz

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 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.