

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

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

DOCKET NO. 080001-EI
ORDER NO. PSC-08-0743-CFO-EI
ISSUED: November 6, 2008

ORDER GRANTING FLORIDA POWER & LIGHT COMPANY'S
REQUEST FOR CONFIDENTIAL CLASSIFICATION (DOCUMENT NO. 06271-08)

Background

On July 21, 2008, pursuant to Section 366.093, Florida Statutes (F.S.), and Rule 25-22.006, Florida Administrative Code (F.A.C.), Florida Power & Light Company (FPL) filed a request for confidential classification in this docket for certain information responsive to staff's Third Request for Production of Documents, Nos. 16-22 (Document No. 06271-08). The information subject to the request concerns documents associated with a Nuclear Regulatory Commission Report and FPL's Turkey Point Nuclear Unit 3.

At the November 6, 2008, hearing for Docket 080001-EI, counsel for FPL orally requested that Temporary Protection also be granted with respect to Document No. 06271-08, as provided in Section 366.093(2), F.S., and Rule 25-22.006(6), F.A.C. Section 366.093(2), F.S., directs that all records produced pursuant to a discovery request for which proprietary confidential status is requested shall be treated by any party subject to public records law as confidential and exempt from the public records law. Section 119.07(1), F.S. Rule 25-22.006(6), F.A.C., codifies the Commission's policy protecting confidential information from public disclosure during the discovery process in a manner that is not overly burdensome to the parties. Upon consideration, FPL's Motion for Temporary Protective Order was granted at the November 6, 2008, hearing. Accordingly, this information will be protected from disclosure pursuant to Rule 25-22.006(6), F.A.C.

This Order addresses FPL's July 21, 2008, request for confidential classification regarding Document No. 06271-08.

Request for Confidential Classification

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 [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)(c), F.S., provides that proprietary confidential business information includes, but is not limited to, "[s]ecurity measures, systems, or procedures."

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FPL contends that information contained in the redacted portions of Document No. 06271-08 falls within this category, and thus constitutes security measures, systems, or procedures entitled to protection under Section 366.093, F.S., and Rule 25-22.006, F.A.C. This is supported by Exhibit D to FPL's confidentiality request, which is an affidavit by Mr. Terry Jones, who is employed as Vice President of FPL's Nuclear Operations Midwest Region. In the affidavit, Mr. Jones states that the information for which confidential treatment is requested relates to the security of FPL's Turkey Point Nuclear Unit 3 and, if made public, would disclose certain details about FPL's security measures, systems, or procedures, to the detriment of FPL, its customers, and the general public. Mr. Jones further indicates that this information is intended to be and is treated by FPL as private and has not been publicly disclosed.

Upon review, it appears that the above-referenced information satisfies the criteria set forth in Section 366.093(3)(c), F.S., and, thus, shall be treated as confidential. The information constitutes "[s]ecurity measures, systems, or procedures." Thus, this information is 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 FPL or another affected person shows, and the Commission finds, that the records continue to contain proprietary confidential business information.

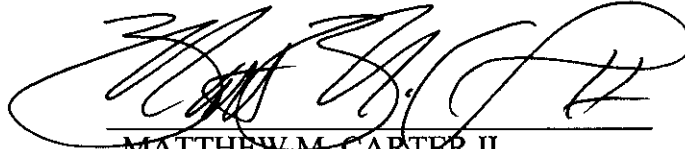
Based on the foregoing, it is

ORDERED by Commissioner Matthew M. Carter II, as Chairman and Presiding Officer, that Florida Power & Light Company's Request for Confidential Classification of Document No. 06271-08 is granted. It is further

ORDERED that the information in Document No. 06271-08 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 Chairman Matthew M. Carter II, as Presiding Officer, this 6th day of November, 2008.



MATTHEW M. CARTER II
Chairman and Presiding Officer

(S E A L)

JSB

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.