

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Environmental cost recovery clause.

DOCKET NO. 110007-EI
ORDER NO. PSC-11-0390-CFO-EI
ISSUED: September 15, 2011

ORDER GRANTING FLORIDA POWER & LIGHT COMPANY'S
REQUEST FOR CONFIDENTIAL CLASSIFICATION
(DOCUMENT NO. 02773-11)

On April 22, 2011, 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 of certain information provided in response to Staff's request at a March 29, 2011 informal meeting. (Document No. 02773-11).

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 Section 119.07(1) [the Public Records Act]." Pursuant to Section 366.093(3), F.S., proprietary confidential business information includes information: 1) that is intended to be and is treated by the company as private; 2) that has not been voluntarily disclosed to the public; and 3) that, if disclosed, would cause harm to the company's ratepayers or business operations. Confidential business information includes, but is not limited to "[i]nformation concerning . . . contractual data, the disclosure of which would impair the efforts of the public utility . . . 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 information." *Id.* at (d-e).

FPL asserts that specific information contained in Document No. 02773-11, as more specifically described in Exhibit C to its request, 1) is "confidential business information that is both related to contracts and competitively sensitive" 2) "contains the terms and conditions of the warranty that FPL has negotiated for the ESPs that are to be installed on the 800 MW oil-fired units" and 3) "is intended to be and is treated by FPL as private, and its confidentiality has been maintained." Thus, FPL contends that the information is entitled to protection pursuant to Sections 366.093(3) (d-e), F.S.

Ruling

Upon review, I find that the information identified in Document No. 02773-11, as more specifically described in Exhibit C to FPL's request, is treated as private and confidential by FPL and relates to the terms and conditions of the warranty that FPL has negotiated for the ESPs that are to be installed on FPL's 800 MW oil-fired units. As such, the private information relates to a) contractual data, the disclosure of which would impair the efforts of FPL to contract for goods or

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services on favorable terms, and b) competitive interests, which, if disclosed, would cause harm to FPL's ratepayers or business operations. This satisfies the criteria for classification as proprietary confidential business information set forth in Sections 366.093(3)(d-e), F.S. Thus, the information shall be granted confidential classification.

Based on the foregoing, it is

ORDERED by Commissioner Ronald A. Brisé, as Prehearing Officer, that Florida Power & Light Company's request for confidential classification of portions of Document No. 02773-11, as detailed in Exhibit C to its request, is granted. It is further

ORDERED that the information in Document No. 02773-11 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. 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. 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 Ronald A. Brisé, as Prehearing Officer, this 15th day of September, 2011.



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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 25-22.0376, 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.