

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for determination of need for
Okeechobee Clean Energy Center Unit 1, by
Florida Power & Light Company.

DOCKET NO. 150196-EI
ORDER NO. PSC-15-0493-CFO-EI
ISSUED: October 22, 2015

ORDER GRANTING FLORIDA POWER & LIGHT COMPANY'S
REQUEST FOR CONFIDENTIAL CLASSIFICATION
(DOCUMENT NO. 06341-15)

On October 8, 2015, 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 Information Provided in Response to the Staff of the Florida Public Service Commission's First Set of Interrogatories (Nos. 12 and 14) and First Request for Production of Documents (No. 6) (Request) served on October 8, 2015. FPL asserts that portions of the information contained in the responses, described with specific justification in Exhibit C of its Request, constitutes proprietary and confidential business information entitled to protection under Section 366.093, F.S., and Rule 25-22.006, F.A.C. FPL further asserts that the information is intended to be and is treated as private by FPL, and has not been publically disclosed. FPL, therefore, requests that the Commission grant confidential classification for the documents for a period of 18 months from the date of the issuance of this Order, pursuant to Section 366.093(4), F.S.

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 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. Pursuant to Section 366.093(3), confidential business information includes, but is not limited to, the following:

- "Information 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
- "Information relating to competitive interests, the disclosure of which would impair the competitive business of the provider of the information."

Id. at (d)-(e).

FPL contends that portions of the information contained in its responses to Staff's First Set of Interrogatories Nos. 12 and 14 and Staff's First Set of Production of Documents No. 6, described with specific justification in Exhibit C of its Request, constitutes "proprietary confidential business information" under Section 366.93(3), F.S. FPL contends that the information relates to negotiated contractual data and competitive business interests relating to natural fossil fuel commodity pricing, gas price forecasts, and light fuel oil forecasts that FPL treats as proprietary confidential business information. FPL argues that disclosure of the information would impair its efforts to contract for goods or services on favorable terms, and adversely impair the competitive interests of it or its suppliers. Based on the foregoing reasons, FPL asserts that the information is entitled to confidential classification pursuant to Section 366.093(d) and (e), F.S.

Ruling

Upon review, it appears that, except for FPL's response to Staff's Request for Production No. 6(a)¹, the portions of FPL's responses to Staff's First Set of Interrogatories Nos. 12 and 14 and First Request for Production of Documents No. 6 described in Exhibit C of FPL's Request for Confidential Classification satisfy the criteria set forth in Section 366.093(3), F.S., for classification as proprietary confidential business information. Except FPL's response to Staff's First Request for Production No. 6(a), the portions of FPL's responses to Staff's First Set of Interrogatories Nos. 12 and 14 and First Request for Production of Documents No. 6 appear to contain information concerning contractual data, the disclosure of which would impair the efforts of FPL to contract for goods or services on favorable terms, and/or competitive interests, the disclosure of which would impair the competitive business of the provider of the information.

Therefore, except for FPL's response to Staff's First Request for Production No. 6(a), the portions of FPL's responses to Staff's First Set of Interrogatories Nos. 12 and 14 and First Request for Production of Documents No. 6 described in Exhibit C of FPL's Request for Confidential Classification, the information identified in Document No. 06341-15, as specifically described in Exhibit C of FPL's Request, shall be granted confidential classification pursuant to Section 366.093(3), F.S.

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 up to 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.

¹ I note that FPL's Request for Confidential Classification of information provided in response to Staff's First Request for Production No. 6, pertains exclusively to portions of FPL's response to subpart No. 6(b) of Staff's First Request for Production No. 6 and does not include its response to subpart 6(a).

Based on the foregoing, it is

ORDERED by Commissioner Ronald A. Brisé, as Prehearing Officer, that, except for FPL's response to Staff's First Request for Production No. 6(a), Florida Power & Light Company's Request for Confidential Classification of Document No. 06341-15, as detailed in Exhibit C of Florida Power & Light Company's Request, is granted. It is further

ORDERED that the information in Document No. 06341-15, 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 Florida Power & Light Company 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 22nd day of October, 2015.



RONALD A. BRISE
Commissioner and Prehearing Officer
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Copies furnished: A copy of this document is provided to the parties of record at the time of issuance and, if applicable, interested persons.

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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.