

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Nuclear cost recovery clause.

DOCKET NO. 160009-EI
ORDER NO. PSC-16-0220-CFO-EI
ISSUED: June 6, 2016

ORDER GRANTING FLORIDA POWER & LIGHT COMPANY'S FIRST REQUEST FOR
EXTENSION OF CONFIDENTIAL CLASSIFICATION OF INFORMATION PROVIDED
PURSUANT TO AUDIT NO. 11-024-4-1 (DOCUMENT NO. 04051-11)

On December 9, 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 its First Request for Extension of Confidential Classification (request) of documents provided pursuant to Audit No. 11-024-4-1 (audit workpapers) (Document No. 04051-11). This Request was filed in Docket No. 150009-EI.

Request for Confidential Classification

FPL's original request for confidential treatment of information provided pursuant to Audit No. 11-024-4-1 was granted by Order No. PSC-14-0292-CFO-EI, issued June 9, 2014. FPL contends that designated portions of the audit workpapers constitutes proprietary confidential business information entitled to continued protection under Section 366.093(3), F.S., and Rule 25-22.006, F.A.C. FPL avows that this information is intended to be and continues to be treated by FPL as private and has not been publicly disclosed.

FPL asserts that the information that was the subject of Order No. PSC-14-0292-CFO-EI warrants continued treatment as proprietary and confidential business information. FPL's request incorporates by reference and adopts the arguments propounded in its original request. Also included within FPL's request are Revised Exhibit C and Revised Exhibit D. Revised Exhibit C is a table that identifies the specific pages, lines or columns that of the confidential information, references the specific statutory bases for confidentiality, and the lists affiants who support the requested classification. Revised Exhibit D contains the affidavits of Antonio Maceo and Brenda Thompson in support of FPL's request.

FPL contends that the audit workpapers contain information related to reports of internal auditors, and competitively sensitive information relating to FPL's tax returns and other information belonging to NextEra Energy Resources which, if publicly disclosed, could impair the competitive interests of the provider of the information. FPL argues that this information should be protected under Sections 366.093(3)(b) and (e), F.S. FPL asserts that the audit workpapers also contain information related to bids or contractual data, specifically copies of contracts and contractor billing rates. FPL states that this information is entitled to protection pursuant to Section 366.093(3)(d), F.S., because public disclosure would violate nondisclosure provisions of FPL's contracts with certain vendors, and impair its ability to contract for goods or services on favorable terms in the future.

FPL further asserts that the audit workpapers contain employee compensation information which, if publicly disclosed, would allow competing employers to meet or beat the compensation currently offered, resulting in the loss of talented employees. FPL also states that the audit workpapers contain information relating to employee social security numbers, which is unrelated to compensation, duties, qualifications, or responsibilities and should be protected pursuant to Section 366.093(3)(f), F.S.

FPL contends that nothing has changed since the filing of the original request to render the information stale or public, such that continued confidential treatment would not be appropriate.

Ruling

Section 366.093(1), F.S., provides that records that the Florida Public Service Commission (Commission) has found to contain proprietary confidential business information shall be kept confidential and shall be exempt from Chapter 119, F.S. Section 366.093(3), F.S., defines proprietary confidential business information as information that is intended to be and is treated by FPL as private, and that disclosure of the information would cause harm to FPL's ratepayers or business operations, and that has not been voluntarily disclosed to the public. Section 366.093(3), F.S., provides, in pertinent part, that proprietary confidential business information includes, but is not limited to:

- (b) Internal auditing controls and reports of internal auditors.
- (d) 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.
- (e) Information relating to competitive interests, the disclosure of which would impair the competitive business of the provider of the information.
- (f) Employee personnel information unrelated to compensation, duties, qualifications, or responsibilities.

Upon review, it appears the above-referenced information satisfies the criteria set forth in Section 366.093(3), F.S., for continued classification as proprietary confidential business information. The information described above appears to be information concerning internal auditing controls and reports of internal auditors, bids or other contractual data, the disclosure of which would impair the efforts of FPL or its affiliates to contract for goods or services on favorable terms, information relating to competitive interests, the disclosure of which would impair the competitive business of the provider of the information, and employee personnel information unrelated to compensation, duties, qualifications, or responsibilities. Thus, the information identified in Document No. 04051-11 shall be granted a continuation of confidential classification.

FPL states that the information will continue to be confidential beyond the next 18 months, and request that confidential treatment be extended for a period of not less than five years. However, FPL did not provide any further support for why the information would need continuing confidential treatment beyond the 18 months provided by statute. This does not meet the requirement provided within the statute for “good cause.” Therefore, 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.

Based on the foregoing, it is hereby

ORDERED by Commissioner Art Graham, as Prehearing Officer, that Florida Power & Light Company’s Request for Extension of Confidential Classification is granted. It is further

ORDERED that the information contained in Document No. 04051-11, for which confidential classification has been granted, shall remain protected from disclosure for a period of up to 18 months from the date of issuance of this Order. It is further

ORDERED that this Order will be the only notification by the Commission to the parties concerning the expiration of the confidentiality time period.

By ORDER of Commissioner Art Graham, as Prehearing Officer, this 6th day of June, 2016.


ART GRAHAM

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.