

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Energy conservation cost recovery
clause.

DOCKET NO. 160002-EG
ORDER NO. PSC-16-0307-CFO-EG
ISSUED: July 28, 2016

ORDER GRANTING FLORIDA POWER & LIGHT COMPANY'S
THIRD EXTENSION OF CONFIDENTIAL CLASSIFICATION
(DOCUMENT NOS. 02085-14, AND 04844-10)

On March 23, 2016, 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 Third Request for Extension of Confidential Classification (Request) of certain materials provided pursuant to Audit No. 09-350-4-1 (Audit) (Document Nos. 02085-14 and 04844-10).

Request for Confidential Classification

FPL's original request for confidential treatment of information provided during the Audit was granted by Order No. PSC-11-0181-CFO-EG, issued on March 30, 2011, and included Exhibits A, B, C, and D. The First and Second Requests were granted by Order Nos. PSC-12-0596-CFO-EG, issued on November 1, 2012 and Order No. PSC-14-0493-CFO-EG, issued September 16, 2014, respectively. FPL asserts that some of the information that was the granted confidential status warrants continued treatment as proprietary and confidential business information. Accordingly, FPL has submitted the extension request and states that its information designated in the Second Revised Exhibits A and B remains confidential in this third extension. FPL states that all of the information included its Third Revised Exhibit C is revised only to identify Terry Keith as a new declarant and is a table that identifies the specific pages, lines, or columns that remain confidential along with the statutory basis for confidentiality and supporting affidants. Third Revised Exhibit D contains the affidavits of Antonio Maceo, Terry J. Keith and Anita Sharma in support of its request.

FPL asserts that certain information provided by FPL contains or constitutes internal auditing controls, reports or notes of internal auditors or information relating to internal auditing reports issued in 2009. FPL contends that such information is protected by Section 366.093(3)(b), F.S.

FPL further asserts that some documents contain information concerning bids or other contractual data, such as pricing and other terms, the disclosure of which would impair FPL's efforts to contract for goods or services on favorable terms in the future. FPL further contends that certain documents contain information relating to competitive interests, the disclosure of which would impair the competitive business of FPL. FPL argues that this information is protected by Section 366.093(3)(d) and (e), F.S. Additionally, FPL asserts that certain information provided by FPL contains information related to customer-specific account

information, which includes customer names, addresses, telephone numbers and account numbers, rates, billing determinants (kW and kWh usage), conservation savings in kW, kWh and bills. FPL contends that it is FPL's policy not to disclose customer-specific information, except as required by law, to entities or persons other than the customer, absent the customer's consent. FPL argues that its policy is premised upon customers' right to privacy and the potential that disclosure of customer specific information may harm some customers' competitive interests. FPL asserts that such information is protected from public disclosure by Section 366.093(3)(e), F.S. Lastly, FPL contends that certain information also contains confidential employee information involving data unrelated to compensation, duties, qualifications, or responsibilities, such as payroll, pension, and welfare rates, which is protected from public disclosure by Section 366.093(3)(f), F.S.

FPL's Third Request for Extension incorporates by reference and adopts the arguments propounded in its original and first requests for extension. FPL asserts that the period of confidential treatment of the above-numbered documents is due to expire soon. FPL contends that the information deemed confidential warrants continued treatment as proprietary and confidential business information within the meaning of Section 366.093(3), F.S. FPL further asserts that the confidential information is intended to be and has been treated by FPL as private and its confidential nature has been maintained. FPL also asserts that the disclosure of the information would cause harm to FPL and its customers. Finally, FPL contends that nothing has changed since the filing of the original requests 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 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), F.S., provides 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 goods 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 that the information described above satisfies the criteria set forth in Section 366.093(3), F.S., for classification as proprietary confidential business information. The information described above appears to be concerning 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, and information relating to competitive interests, the disclosure of which would impair the competitive business of the provider of the information. The information also appears to contain information related to internal auditing controls and reports of internal auditors. Furthermore, the information appears to contain employee personnel information unrelated to compensation, duties, qualifications, or responsibilities; thus, the information identified in Document Nos. 02085-14 and 04844-10, shall be granted a continuation of 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 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 Third Request for Extension of Confidential Classification of Document Nos. 02085-14 and 04844-100, is granted. It is further

ORDERED that the information contained in Document Nos. 02085-14 and 04844-10, for which confidential classification has been granted, shall remain protected from disclosure for a period of up to 18 months from the date of the 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 28th day
of July, 2016.



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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.