

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Nuclear cost recovery clause.

DOCKET NO. 20170009-EI
ORDER NO. PSC-2017-0308-CFO-EI
ISSUED: August 2, 2017

ORDER GRANTING IN PART AND DISMISSING IN PART FLORIDA POWER & LIGHT
COMPANY'S FIRST REQUEST FOR EXTENSION OF CONFIDENTIAL
CLASSIFICATION OF INFORMATION PROVIDED PURSUANT TO AUDIT CONTROL
NO. 12-010-4-1 WORK PAPERS (DOCUMENT NO. 04013-12; X-REF 03540-12)

On April 29, 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 First Request for Extension of Confidential Classification (request) of information provided pursuant to Audit Control No. 12-010-4-1 Work Papers (audit work papers) (Document No. 04013-12; x-ref 03540-12). This Request was filed in Docket No. 160009-EI.

Request for Confidential Classification

FPL's original request for confidential treatment of information provided pursuant to Audit Control No. 12-010-4-1 was granted by Order No. PSC-14-0623-CFO-EI, issued October 29, 2014. FPL contends that the designated portions of the audit work papers constitute 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.

FPL asserts that the information that was the subject of Order No. PSC-14-0623-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 of confidential information, references the specific statutory bases for confidentiality, and 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 work papers contain information related to reports of internal auditors and competitively sensitive information, which if 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 work papers also contain information related to bids or contractual data, such as pricing or other terms. 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 work papers 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 contends that this information is also protected under Section 366.093(3)(e), F.S. Moreover, FPL asserts that these documents contain employee Social Security numbers, which are unrelated to compensation, duties, qualifications, or responsibilities. FPL contends that this information is protected under 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, except for the employees' Social Security numbers. Social Security numbers are exempt from the provisions of Chapter 119, F.S., pursuant to Section 119.071(5)(a)5., F.S. Their exempt status protects them from disclosure to the general public, pursuant to Chapter 119, F.S. Therefore, no rulings on the portion of the request regarding employee Social Security numbers are necessary. The remaining 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; and information relating to competitive interests, the

disclosure of which would impair the competitive business of the provider of the information. Thus, the information, except for the employees' Social Security numbers, identified in Document No. 04013-12; x-ref 03540-12 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 Ronald A. Brisé, as Prehearing Officer, that Florida Power & Light Company's Request for Extension of Confidential Classification of Document No. 04013-12; x-ref 03540-12 is granted in part and dismissed in part as set forth herein. It is further

ORDERED that the information contained in Document No. 04013-12; x-ref 03540-12, 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 Ronald A. Brisé, as Prehearing Officer, this 2nd day
of August, 2017.



RONALD A. BRISÉ
Commissioner and Prehearing Officer
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399
(850) 413-6770
www.floridapsc.com

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.