

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Analysis of IOUs' hedging practices.

DOCKET NO. 20170057-EI
ORDER NO. PSC-2017-0327-CFO-EI
ISSUED: August 14, 2017

ORDER GRANTING FLORIDA POWER & LIGHT COMPANY'S FIRST
REQUEST FOR CONFIDENTIAL CLASSIFICATION (DOCUMENT NO. 05744-2017)

On July 10, 2017, 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 Confidential Classification of Information Provided in Response to Discovery (Request) of its responses to the Office of Public Counsel's (OPC) First Request for Production of Documents No. 1, which were also provided in response to the Sierra Club's First Request for Production of Documents No. 3 (Document No. 05744-2017).

Request for Confidential Classification

FPL contends that the information contained in its responses to OPC's First Request for Production of Documents No. 1 and the Sierra Club's First Request for Production of Documents No. 3, more specifically described in Exhibit C to its Request, constitutes proprietary confidential business information entitled to protection under Section 366.093, F.S., and Rule 25-22.006, F.A.C. FPL asserts that this information is intended to be and is treated by FPL as private and has not been publicly disclosed.

The information contained in the responses to OPC's First Request for Production of Documents No. 1 and the Sierra Club's First Request for Production of Documents No. 3 consists of Out-of-the-Money Options Analyses for the years 2007 through 2016 and FPL's replication of witness Gettings' risk-responsive hedging model. FPL contends that disclosure of the contractual data related to FPL's hedging transactions for natural gas would impair the competitive business of FPL, its suppliers and third parties. Information related to option premiums are proprietary to the Chicago Mercantile Exchange, Inc. which FPL is required to maintain as confidential. Further, witness Gettings' responsive hedging model is proprietary to him. Therefore, FPL argues that this information is protected by Sections 366.093(3)(d) and (e), F.S.

Ruling

Section 366.093(1), F.S., provides that records the Florida Public Service Commission (Commission) has found to contain proprietary 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:

(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.

Upon review, it appears the above-referenced information satisfies the criteria set forth in Section 366.093(3), F.S., for classification as proprietary confidential business information. The negotiated hedged prices for natural gas, if disclosed, could adversely impact FPL's competitive interests as well as the competitive interests of its vendors. Further, disclosure of this information could result in higher prices for natural gas in the future. Finally, it is appropriate, and contractually required, for FPL to protect witness Gettings' and the Chicago Mercantile Exchange's proprietary information. Thus, the information identified in Document No. 05744-2017 shall be granted 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 First Request for Confidential Classification of Document No. 05744-2017, is granted, as set forth herein. It is further

ORDERED that the information in Document No. 05744-2017 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 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 14th day of August, 2017.



RONALD A. BRISÉ
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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.