BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Fuel and Purchased Power Cost Recovery Clause and Generating Performance Incentive Factor.	DOCKET NO. 930001-EI ORDER NO. PSC-93-0397-CFO-EI ISSUED: 03/15/93

ORDER REGARDING FPL'S REQUEST FOR CONFIDENTIAL TREATMENT OF NOVEMBER, 1992, FORMS 423

Florida Power & Light Company (FPL), pursuant to Section 366.093, Florida Statutes, and Rule 25-22.006, Florida Administrative Code, has requested specified confidential treatment of various columns of the following FPSC Form 423-1(a):

MONTH/YEAR	FORM	DOCUMENT NO.
November, 1992	423-1(a)	573-93

FPL has requested specified confidential classification of lines 1, and 9-26 of columns H, Invoice Price; I, Invoice Amount; J, Discount; K, Net Amount; L, Net Price; M, Quality Adjustment; N, Effective Purchase Price; P, Additional Transportation Charges, and Q, Other Charges, on Form 423-1(a). FPL argues that column H, Invoice Price, contains contractual information which, if made public, would impair its efforts to contract for goods or services on favorable terms pursuant to Section 366.093(3)(d), Florida Statutes. The information, FPL maintains, delineates the price that FPL has paid for No. 6 fuel oil per barrel for specific shipments from specific suppliers. If disclosed, this information would allow suppliers to compare an individual supplier's price with the market quote for that date of delivery and thereby determine the contract pricing formula between FPL and that supplier.

Contract pricing formulas typically contain two components: a mark-up in the market quoted price for that day and a transportation charge for delivery at an FPL chosen port of delivery. Disclosure of the invoice price would allow suppliers to determine the contract price formula of their competitors. FPL contends that the knowledge of each other's prices (i.e. contract formulas) among No. 6 fuel oil suppliers is reasonably likely to cause suppliers to converge on a target price, or follow a price leader, thereby effectively eliminating any opportunity for a major buyer, like FPL, to use its market presence to gain price concessions from any one supplier. As a result, FPL contends, No. 6 fuel prices will likely increase, resulting in increased electric

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rates. Once other suppliers learn of a price concession, the conceding supplier will be forced, due to the oligopolistic nature of the market, to withdraw from future concessions. Disclosure of the invoice price of No. 6 fuel oil paid by FPL to specific fuel suppliers, FPL concludes, is reasonably likely to impair FPL's ability to negotiate price concessions in future No. 6 fuel oil contracts.

FPL argues that lines 1, and 9-26 of columns I, Invoice Amount; J, Discount; K, Net Amount; L, Net Price; M, Quality Adjustment; and N, Effective Purchase Price, should be classified confidential because of the contract data found therein are an algebraic function of column H; the publication of these columns together, or independently, FPL argues, could allow suppliers to derive the invoice price of oil. In addition, the same lines in column J reveal the existence and amount of an early payment incentive in the form of a discount reduction in the invoice price, the disclosure of which would allow suppliers again to derive the invoice price of oil. Further, column M includes a pricing term, a quality adjustment applied when fuel does not meet contract requirements, which, if disclosed, would also allow a supplier to derive the invoice price. Column N reveals the existence of quality or discount adjustments and will typically, FPL contends, be identical to H. Lines 1, and 9-26 of columns P, Additional Charges, and Q, Other Charges, FPL also argues, are algebraic variables of column R, Delivered Price; and would allow a supplier to calculate the Invoice or Effective Purchase Price of oil by subtracting the columnar variables in H and N from column R. They are, therefore, entitled to confidential classification. Both columns P and Q, FPL argues, are alternatively entitled to confidential classification in that they contain terminaling, transportation, and petroleum inspection service costs which, due to the small demand for them in Florida, have the same, if not more severe, oligopolistic attributes as have fuel oil suppliers. Accordingly, FPL contends, disclosure of this contract data would result in increased prices to FPL for terminaling, transportation, and petroleum inspection service costs. I find that, due to oligopolistic nature of the terminaling, transportation, and petroleum inspection service markets, disclosure would ultimately adversely affect FPL's ratepayers.

FPL further argues that lines 2-8 of columns H, Invoice Price; I, Invoice Amount; K, Net Amount; L, Net Price; N, Effective Purchase Price; and R, Delivered Price, are contractual information which, if made public, would impair FPL's efforts to contract for

goods or services on favorable terms pursuant to Section 366.093(3)(d), Florida Statutes. The information indicates the price FPL has paid for No. 2 fuel oil per barrel for specific shipments from specific suppliers. No. 2 fuel oil is purchased through the bidding process. At the request of No. 2 fuel oil suppliers, FPL has agreed not to publicly disclose any supplier's bid. This non-disclosure agreement, FPL argues, protects both the bidding suppliers and FPL's ratepayers. If the No. 2 fuel oil prices were disclosed, FPL argues, the range of bids would narrow toward the last winning bid eliminating the possibility that one supplier might, based on its economic situation, submit a bid substantially lower than the other suppliers. FPL argues that non-disclosure protects a supplier from divulging any economic advantage that the supplier may have that the others have not discovered. FPL also argues that it protects the ratepayers by providing a non-public bidding procedure resulting in a greater variation in the range of bids that would otherwise not be available if the bids, or the winning bid itself, were to be publicly disclosed.

Accordingly, I find that the above information is entitled to confidential treatment.

DECLASSIFICATION

FPL further requests the following proposed declassification dates which have been determined by adding six months to the last day of the contract period under which the goods or services identified were purchased:

FORM	LINE(S)	COLUMN(S)	DATE
423-1(a)	9 - 12	H - N	03-30-94
423-1(a)	13- 16	H - N	10-30-94
423-1(a)	17	H - N	10-30-94
423-1(a)	18	H - N	03-31-94
423-1(a)	1,19-26	H - N	05-31-93
423-1(a)	1, 9-26	P	12-31-92
423-1(a)	1, 9-26	Q	06-30-94
423-1(a)	2 - 8	H,I,K,L,N,R	06-10-94

FPL requests that the confidential information identified above not be disclosed until the identified date of declassification. Disclosure of pricing information, FPL argues, during the contract period or prior to the negotiation of a new

contract is reasonably likely to impair FPL's ability to negotiate future contracts as described above.

FPL maintains that it typically renegotiates its No. 2 and No. 6 fuel oil contracts and fuel related services contracts prior to the end of such contracts. On occasion, however, some contracts are not renegotiated, until after the end of the current contract period. In those instances, the contracts are usually renegotiated within six months. Accordingly, FPL states, it is necessary to maintain the confidentiality of the information identified as confidential on FPL's Form 423-1(a) for six months. I agree. I find, therefore, FPL information is entitled to an extension of its declassification dates as cited above.

In consideration of the foregoing, it is

ORDERED that Florida Power & Light Company's request for confidential classification of the above specified information in Form 423-1(a) for November, 1992, the document identified as DN 573-93 is granted, as discussed within the body of this Order. It is further

ORDERED that Florida Power & Light Company's request for the declassification dates included in the text of this order is granted.

By ORDER of Chairman J. Terry Deason, as Prehearing Officer, this 15th day of March, 1993.

J. TERRY DEASON, Chairman and
Prehearing Officer

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NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.59(4), 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.

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 25-22.038(2), Florida Administrative Code, if issued by a Prehearing Officer; 2) reconsideration within 15 days pursuant to Rule 25-22.060, Florida Administrative Code, if issued by the Commission; or 3) 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 Director, Division of Records and Reporting, in the form prescribed by Rule 25-22.060, 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.