

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Fuel and purchased power  
cost recovery clause with  
generating performance incentive  
factor.

DOCKET NO. 030001-EI  
ORDER NO. PSC-03-0035-CFO-EI  
ISSUED: January 6, 2003

ORDER GRANTING REQUEST FOR CONFIDENTIAL CLASSIFICATION  
(DOCUMENT NO. 11296-02)

On October 17, 2002, pursuant to Section 366.093, Florida Statutes, and Rule 25-22.006, Florida Administrative Code, Florida Power Corporation (Florida Power) filed a request for confidential classification of specified portions of its responses to Commission Staff's Interrogatory Nos. 41 and 59 (Document No. 11296-02).

Section 366.093(1), Florida Statutes, provides that "any records received by the commission which are shown and found by the commission to be proprietary confidential business information shall be kept confidential and shall be exempt from [the Public Records Act]." Section 366.093(3), Florida Statutes, 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)(d), Florida Statutes, provides that proprietary confidential business information includes, but is not limited to, "[i]nformation 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." Further, Section 366.093(3)(e), Florida Statutes, provides that proprietary confidential business information includes "[i]nformation relating to competitive interests, the disclosure of which would impair the competitive business of the provider of the information."

Florida Power contends that the information in specified portions of its responses to Interrogatory Nos. 41 and 59 falls within these categories and thus constitutes proprietary confidential business information entitled to protection under Section 366.093, Florida Statutes, and Rule 25-22.006, Florida

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Administrative Code. Florida Power states that this information is intended to be and is treated by Florida Power as private and has not been publicly disclosed. Florida Power asserts that this information provides the same or similar cost information as that contained in its Form 423 monthly filings in this docket which is consistently accorded confidential treatment by the Commission.

Florida Power asserts that the information in Attachment A to its response to Interrogatory No. 41, under the column labeled "Commodity Price," identifies the basic component of the contract pricing mechanism. Florida Power asserts that disclosure of the commodity price, in conjunction with other publicly available information, would enable suppliers to determine the pricing mechanisms of their competitors, with the likely result being greater price convergence in future bidding. Further, Florida Power asserts that disclosure would result in the company being less able to bargain for price concessions, because suppliers would be reluctant or unwilling to grant concessions that other potential purchasers would expect. Hence, Florida Power contends that this information, if disclosed, would result in higher fuel costs incurred by Florida Power and its customers.

Florida Power asserts that the information provided in its response to Interrogatory No. 59, under the column labeled "\$/ton," identifies the unit transportation cost of coal delivered to the Crystal River plant site by rail and by water and reflects current rates. Florida Power asserts that disclosure of these rates would enable coal suppliers to bid a F.O.B. mine price calculated to produce a delivered plant price at or marginally below Florida Power's current delivered price, which is publicly available. Florida Power contends that without an opportunity to use the transportation rates in this manner, suppliers would find it necessary to bid their best price. Hence, Florida Power contends that this information, if disclosed, would result in higher fuel costs incurred by Florida Power and its customers.

Upon review, it appears that the information in the above-specified portions of Florida Power's responses to Interrogatory Nos. 41 and 59 satisfies the criteria set forth in Section 366.093(3), Florida Statutes, for classification as proprietary confidential business information and, thus, shall be treated as confidential. Specifically, this information constitutes

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"[i]nformation 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" and "[i]nformation relating to competitive interests, the disclosure of which would impair the competitive business of the provider of the information." Thus, this information is granted confidential classification.

Pursuant to Section 366.093(4), Florida Statutes, the information for which confidential classification is granted herein shall remain protected from disclosure for a period of 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), Florida Statutes, unless Florida Power 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

ORDERED by Commissioner Michael A. Palecki, as Prehearing Officer, that Florida Power Corporation's Request for Confidential Classification of Document No. 11296-02 is granted. It is further

ORDERED that the information in Document No. 11296-02 for which confidential classification has been granted shall remain protected from disclosure for a period of 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.

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By ORDER of Commissioner Michael A. Palecki, as Prehearing Officer, this 6th day of January, 2003.



MICHAEL A. PALECKI  
Commissioner and Prehearing Officer

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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, 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,

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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 the Commission Clerk and Administrative Services, 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.