

BEFORE THE PUBLIC SERVICE COMMISSION

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

DOCKET NO. 040001-EI  
ORDER NO. PSC-04-1090-CFO-EI  
ISSUED: November 4, 2004

ORDER GRANTING REQUEST FOR CONFIDENTIAL CLASSIFICATION  
(DOCUMENT NO. 11779-04)

On September 9, 2004, pursuant to Section 366.093, Florida Statutes, and Rule 25-22.006, Florida Administrative Code, Florida Power & Light Company (FPL) filed a request for confidential classification of portions of Exhibits TLH-1, TLH-2, and TLH-3 to the prepared testimony of Thomas Hartman filed on September 9, 2004 (Document No. 09881-04). On November 2, 2004, FPL filed a revised redacted version of Exhibits TLH-1, TLH-2, and TLH-3 and a revised request for confidential classification (Document No. 11779-04).

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), Florida Statutes, provides that proprietary confidential business information includes, but is not limited to "[t]rade secrets" (subsection a); "[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" (subsection d); and "[i]nformation relating to competitive interests, the disclosure of which would impair the competitive business of the provider of the information" (subsection e).

FPL contends that portions of Exhibits TLH-1, TLH-2, and TLH-3 to the prepared direct testimony of Mr. Hartman fall within these categories and thus constitute proprietary confidential business information entitled to protection under Section 366.093, Florida Statutes, and Rule 25-22.006, Florida Administrative Code. FPL states that it seeks confidential classification for certain information on pricing and other contractual terms contained in the contracts for the purchase of capacity and energy between Southern Company Services, Inc. and FPL from Scherer Unit 3, Harris Unit 1, and Franklin Unit 1, which are Exhibits TLH-1, TLH-2, and TLH-3 respectively. FPL asserts that it seeks confidential protection for the Power Purchase Contract Information because it relates to bids and other contractual data, the disclosure of which would impair FPL's ability to contract for fuel and electric power on favorable terms and because it relates to competitive interests of FPL and Southern Company Services, Inc., the disclosure of which would impair both of their competitive businesses. FPL states that this information is intended to be and is treated by FPL as private and has not been publicly disclosed. FPL requests confidential classification for the information contained in the table below:

DOCUMENT NUMBER-DATE  
11909 NOV-4 04  
FPSC-COMMISSION CLERK



Document No.	Description	No. of Pages	Conf Y/N	Line No./Col No.	Florida Statute 366.093(3) Subsection	Affiant
		67 68 69 70 71 72 73-80 81 82 83-88	Y Y Y Y Y Y N Y Y N	All Lines 1-8, 9-20 All All All All Line 10 Line 19-20		
TLH-1	Appendix A – Monthly Capacity Payment Calculation	1	Y	Lines 4, 8-9, 11-13, 24-27	(d), (e)	T. Hartman
TLH-1	Appendix A – Monthly Capacity Payment Calculation	2	Y	All	(d), (e)	T. Hartman
TLH-1	Appendix B - Energy Payment Calculation and Emissions Adjustment	1	Y	Lines 6, 8-35	(d), (e)	T. Hartman
TLH-1	Appendix B - Energy Payment Calculation and Emissions Adjustment	2	Y	Lines 1-5, 7-30, 32-34	(d), (e)	T. Hartman
TLH-1	Appendix B - Energy Payment Calculation and Emissions Adjustment	3	Y	Lines 1-9, 11-22, 24-43	(d), (e)	T. Hartman
TLH-1	Appendix B - Energy Payment Calculation and Emissions Adjustment	4-5	Y	All	(d), (e)	T. Hartman
TLH-1	Appendix C – Calculation of Start Payment	1	Y	Lines 4, 6-8	(d), (e)	T. Hartman
TLH-1	Appendix D – Scheduling Parameters	1	Y	Lines 6-7, 9, 11	(d), (e)	T. Hartman
TLH-1	Appendix E – Letter of Credit	3	N			
TLH-1	Appendix F – Guaranty Agreement	6	N			

Document No.	Description	No. of Pages	Conf Y/N	Line No./Col No.	Florida Statute 366.093(3) Subsection	Affiant
TLH-1	Appendix G - Example Calculations	1	Y	Lines 12-13, 15-29	(d), (e)	T. Hartman
TLH-1	Appendix G - Example Calculations	2	Y	Lines 6-19, 21-29, 31-36, 38-50a	(d), (e)	T. Hartman
TLH-1	Appendix G - Example Calculations	3	Y	Lines 7-23	(d), (e)	T. Hartman
TLH-1	Appendix G - Example Calculations	4	Y	Lines 6-13, 15-19, 21-28, 30-37, 39-52	(d), (e)	T. Hartman
TLH-1	Appendix G - Example Calculations	5	Y	Lines 6, 12-16	(d), (e)	T. Hartman
TLH-2	Cover Page	1	N			
TLH-2	Table of Contents	i	N			
TLH-2	Table of Contents	ii	N			
TLH-2	Table of Contents	iii	N			
TLH-2	Table of Contents	iv	N			
TLH-2	Contract	1 2 3-7 8 9 10-16 17 18 19 20 21 22 23	N Y N Y Y N Y Y Y Y Y Y Y	Lines 8 & 11  Lines 18-24 Lines 1-22  Lines 20-22 Lines 15-23 Lines 1-9 Lines 15-23 All Line 7, 8 Lines 5-23	(d), (e)	T. Hartman

Document No.	Description	No. of Pages	Conf Y/N	Line No./Col No.	Florida Statute 366.093(3) Subsection	Affiant
		4-26	Y	All		
		7	Y	Lines 1-2, 3-23		
		8	Y	Lines 1-8		
		9	Y	Lines 6-12, 22-23		
		0	Y	Lines 9-16, 18-23		
		1-32	Y	All		
		3	N			
		4	N			
		5	N			
		6	Y	Lines 11-19 and 22-23		
		7	Y	Lines 4, 10-11		
		8	Y	Lines 20-23		
		9	Y	Lines 1-11		
		10-41	N			
		12	Y	Lines 2-23		
		13-44	Y	All		
		15	Y	Lines 1-5, 13		
		16	Y	Lines 2-11		
		17-49	N			
		50	Y	Lines 10,11, 23		
		51	Y	Lines 1-8 & 21		
		52	N			
		53-61	N			
		62	Y	Lines 21-22		
		63	Y	Lines 1-5		
		64	N			
		65	Y	Lines 3-4, 7-8		
		66	Y	Line 12		
		67	Y	Lines 8-9, 13-20		
		68	Y	Lines 8-9, 13-20		
		69-72	N			
		73	Y	Lines 14-21		
		74	Y	All		
		75	Y	Lines 1-2, 22-23		
		76-79	Y	All		
		80	Y	Lines 1-3, 4-23		
		81-82	Y	All		
		83	Y	Lines 1-13		
		84-90	N			
		91	Y	Lines 21-22		
		92	N			
		93	Y	Lines 9-10		
		94-99	N			
TLH-2	Appendix A - Monthly Capacity Payment Calculations	1	Y	Lines 4, 8-9, 11-13, 19, 25-27	(d), (e)	T. Hartman
TLH-2	Appendix A - Monthly Capacity Payment Calculations	2	Y	Lines 1-11, 14-15, 22-26, 29-31	(d), (e)	T. Hartman

Document No.	Description	No. of Pages	Conf Y/N	Line No./Col No.	Florida Statute 366.093(3) Subsection	Affiant
TLH-2	Appendix A - Monthly Capacity Payment Calculations	3	Y	Lines 3-8, 11, 13-18	(d), (e)	T. Hartman
TLH-2	Appendix B - Energy Payment Calculation	1	Y	Lines 5-9, 12-28	(d), (e)	T. Hartman
TLH-2	Appendix B - Energy Payment Calculation	2	Y	All	(d), (e)	T. Hartman
TLH-2	Appendix B - Energy Payment Calculation	3	Y	Lines 2-10, 12-24	(d), (e)	T. Hartman
TLH-2	Appendix B - Energy Payment Calculation	4	Y	Lines 2-10	(d), (e)	T. Hartman
TLH-2	Appendix B - Energy Payment Calculation	5	Y	All	(d), (e)	T. Hartman
TLH-2	Appendix C - Calculation of Start Payment	1	Y	Lines 4, 6-15, 17-29	(d), (e)	T. Hartman
TLH-2	Appendix C - Calculation of Start Payment	2	Y	Lines 2-29	(d), (e)	T. Hartman
TLH-2	Appendix D - Scheduling Parameters	1	Y	Lines 4-8, 11-12, 14-16, 18-19, 21, 23-24	(d), (e)	T. Hartman
TLH-2	Appendix E - Demonstration of Facility Generating Capability and Testing	1	Y	Lines 4-16, 18-31	(d), (e)	T. Hartman
TLH-2	Appendix F - Letter of Credit	1	Y	Lines 13-14, 26-28	(d), (e)	T. Hartman
TLH-2	Appendix F - Letter of Credit	2-3	N			
TLH-2	Appendix G - Parent Guaranty	5	N			

Document No.	Description	No. of Pages	Conf Y/N	Line No./Col No.	Florida Statute 366.093(3) Subsection	Affiant
TLH-2	Appendix H - Example Calculations	1	Y	Lines 11-12, 14-28	(d), (e)	T. Hartman
TLH-2	Appendix H - Example Calculations	2	Y	Lines 5-17, 19-32, 35-39	(d), (e)	T. Hartman
TLH-2	Appendix H - Example Calculations	3	Y	Lines 8-19	(d), (e)	T. Hartman
TLH-2	Appendix H - Example Calculations	4	Y	Lines 6-26, 28-37	(d), (e)	T. Hartman
TLH-2	Appendix H - Example Calculations	5	Y	Lines 6-23	(d), (e)	T. Hartman
TLH-2	Appendix H - Example Calculations	6	Y	Lines 6-41	(d), (e)	T. Hartman
TLH-2	Appendix H - Example Calculations	7	Y	Lines 5, 10-17	(d), (e)	T. Hartman
TLH-2	Appendix H - Example Calculations	8	Y	Lines 6-7, 12-16	(d), (e)	T. Hartman
TLH-3	Cover	1	N			
TLH-3	Table of Contents	i	N			
TLH-3	Table of Contents	ii	N			
TLH-3	Table of Contents	iii	N			
TLH-3	Table of Contents					

Document No.	Description	No. of Pages	Conf Y/N	Line No./Col No.	Florida Statute 366.093(3) Subsection	Affiant
TLH-3	Contract	1-2	N			(d), (e)
		3	Y	Lines 16-17, 20-21	T. Hartman	
		4	Y	Lines 2-3, 7, 9		
		5-8	N			
		9	Y	Lines 18-23		
		10	Y	All		
		11-16	N			
		17	Y	Lines 15-18		
		18	Y	Line 23		
		19	Y	Line 5		
		20	Y	Lines 6-8, 22-23		
		21	Y	Lines 1-7		
		22	Y	Lines 13-23		
		23	Y	All		
		24	Y	Lines 14-23		
		25-27	Y	All		
		28	Y	Lines 1-11, 12-22		
		29	Y	Lines 1-18		
		30	Y	Lines 16-22		
		31	Y	Lines 7-8, 10-11, 20-23		
		32	Y	Lines 1-4, 6-23		
		33	Y	All		
		34	Y	Lines 1-11		
		35	N			
		36	N			
		37	N			
		38	Y	Lines 1-9, 12-13, 17, 23		
		39	Y	Line 1		
		40	N	Lines 10-22		
		41	Y	Lines 1-2		
		42	Y			
		43	Y	Lines 14-22		
		44-46	Y	All		
		47	Y	Line 8, 19-23		
		48	N	Lines 17-23		
		49	Y	Lines 1-6		
		50-51	N			
		52	Y	Line 23		
		53	N	Lines 1, 13-21		
		54	Y	Line 11		
		55-64	N			
		65	Y	Lines 11-12, 13-17		
		66	N			
		67	Y	Lines 15-16, 19-20		
		68	Y	Line 23		
		69	Y	Line 19-20		
		70	Y	Lines 1-8, 19-20		
		71	Y	Lines 1-8		
		72-74	N			
		75	Y	Lines 20-23		
		76	Y	All		
		77	Y	Lines 1-7		
		78	Y	Lines 5-22		



Document No.	Description	No. of Pages	Conf Y/N	Line No./Col No.	Florida Statute 366.093(3) Subsection	Affiant
		79-81 82 83-85 86-93 94 95 96-101	Y Y Y N Y Y N	All Lines 1-11, 12-23 All Line 10 Lines 19-20		
TLH-3	Appendix A - Monthly Capacity payment Calculation	1	Y	Lines 4, 8-9, 11-13, 19-22, 24-30	(d), (e)	T. Hartman
TLH-3	Appendix A - Monthly Capacity payment Calculation	2	Y	Lines 1-12, 19-23, 26-28	(d), (e)	T. Hartman
TLH-3	Appendix A - Monthly Capacity payment Calculation	3	Y	Lines 3-7, 10, 12-17	(d), (e)	T. Hartman
TLH-3	Appendix B - Energy Payment Calculation	1	Y	Lines 5-8, 11-30	(d), (e)	T. Hartman
TLH-3	Appendix B - Energy Payment Calculation	2	Y	Lines 1-11, 14-15, 16-33	(d), (e)	T. Hartman
TLH-3	Appendix B - Energy Payment Calculation	3	Y	Lines 3-7	(d), (e)	T. Hartman
TLH-3	Appendix C - Calculation of Start Payment	1	Y	Lines 4-6, 8-33	(d), (e)	T. Hartman
TLH-3	Appendix C - Calculation of Start Payment	2	Y	Lines 1-19, 21-35	(d), (e)	T. Hartman
TLH-3	Appendix D - Scheduling Parameters	1	Y	Lines 5-8, 10-18, 20, 22	(d), (e)	T. Hartman
TLH-3	Appendix E - Demonstration of Facility Generating Capability and Testing	1	Y	Lines 4-16, 18-31	(d), (e)	T. Hartman
TLH-3	Appendix F - Letter of Credit	3	N			

Document No.	Description	No. of Pages	Conf Y/N	Line No./Col No.	Florida Statute 366.093(3) Subsection	Affiant
TLH-3	Appendix G – Parent Guaranty	5	N			
TLH-3	Appendix H - Example Calculations	1	Y	Lines 9-12, 15-28	(d), (e)	T. Hartman
TLH-3	Appendix H - Example Calculations	2	Y	Lines 5-18, 20-35, 37-44	(d), (e)	T. Hartman
TLH-3	Appendix H - Example Calculations	3	Y	Lines 8-19	(d), (e)	T. Hartman
TLH-3	Appendix H - Example Calculations	4	Y	Lines 6-15, 17-26, 28-38	(d), (e)	T. Hartman
TLH-3	Appendix H - Example Calculations	5	Y	Lines 6-18	(d), (e)	T. Hartman
TLH-3	Appendix H - Example Calculations	6	Y	Lines 5-30	(d), (e)	T. Hartman
TLH-3	Appendix H - Example Calculations	7	Y	Lines 5, 8-31	(d), (e)	T. Hartman
TLH-3	Appendix H - Example Calculations	8	Y	Lines 6-7, 12-22	(d), (e)	T. Hartman

Upon review, it appears that the above-referenced information contained in Exhibits TLH-1, TLH-2, and TLH-3 to Mr. Hartman’s testimony 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. The information constitutes “[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 FPL or another affected person shows, and the Commission finds, that the records continue to contain proprietary confidential business information.

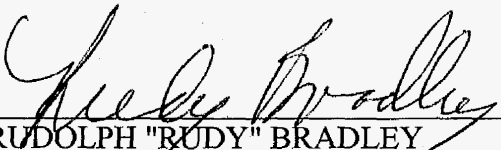
Based on the foregoing, it is

ORDERED by Commissioner Rudolph "Rudy" Bradley, as Prehearing Officer, that FPL's Request for Confidential Classification of Document No. 11779-04 is granted. It is further

ORDERED that the information in Document No. 11779-04 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.

By ORDER of Commissioner Rudolph "Rudy" Bradley, as Prehearing Officer, this 4th day of November, 2004.

  
RUDOLPH "RUDY" BRADLEY  
Commissioner and Prehearing Officer

(SEAL)

JAR

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 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.