

BEFORE THE PUBLIC SERVICE COMMISSION

In re: Petition to determine need for Treasure Coast Energy Center Unit 1, proposed electrical power plant in St. Lucie County, by Florida Municipal Power Agency.	DOCKET NO. 050256-EM ORDER NO. PSC-05-0640-CFO-EM ISSUED: June 15, 2005
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ORDER GRANTING REQUEST FOR CONFIDENTIAL CLASSIFICATION
(DOCUMENT NO. 03616-05)

On April 13, 2005, the Florida Municipal Power Agency (FMPA) filed a Petition to determine the need for Treasure Coast Energy Center Unit 1, a proposed electrical power plant in St. Lucie County. FMPA filed supporting documentation for its petition pursuant to section 403.519, Florida Statutes, and Rules 25-22.080 and 25-22.081, Florida Administrative Code. On the same date FMPA filed a Request for confidential classification, seeking confidential treatment for highlighted parts of Appendix D to the Need for Power Application, which was filed with, and in support of, its need petition. (Document No. 03616-05). Appendix D contains a detailed description of the proposals that FMPA received in response to its Request for Power Supply Proposals (RFP) issued on September 22, 2004, along with a summary of FMPA's evaluation criteria. The RFP provided that the proprietary business information of the respondents would be confidential.

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, also provides that proprietary confidential business information includes, but is not limited to "[t]rade secrets;" "[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."

FMPA seeks confidential classification pursuant to Section 366.093(3), Florida Statutes, for the parts of Appendix D identified in the chart below that contain proprietary business information included in the responses to FMPA's RFP.

DOCUMENT NUMBER-DATE
05706 JUN 15 05
FPSC-COMMISSION CLERK

PAGE	LOCATION	DESCRIPTION	STATUTORY BASIS
D-2	line 1	Name of bidder	sec. 366.093(3)(d), F.S.
D-2	lines 2-6, 7-13,14-16, 17,18,19-20	Terms of proposal	sec. 366.093(3)(d), F.S.
D-4	line 1	Name of bidder	sec. 366.093(3)(d), F.S.
D-4	lines 2-17, 18, 19, 20-26	Terms of proposal	sec. 366.093(3)(d), F.S.
D-5	lines 1-4, 5-6, 7, 8-18	Terms of proposal	sec. 366.093(3)(d), F.S.
D-6	Col. A, lines 1-4, 9-14, 15-20, 21-25	Terms of proposal	sec. 366.093(3)(d), F.S.
D-6	Col. B, lines 1-7, 9-11, 21-26	Terms of proposal	sec. 366.093(3)(d), F.S.
D-6	Col. C, lines 1-8, 9-11, 21-36	Terms of proposal	sec. 366.093(3)(d), F.S.
D-7	Col. A, lines 1, 2-4	Terms of proposal	sec. 366.093(3)(d), F.S.
D-7	Col. B, lines 1, 3-4	Terms of proposal	sec. 366.093(3)(d), F.S.
D-7	Col. C, lines 1, 3-4	Terms of proposal	sec. 366.093(3)(d), F.S.

Upon review, it appears that the above-referenced information contained in Appendix D satisfies the criteria for classification as proprietary confidential business information and thus shall be treated as confidential. Specifically, 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,” as set forth in section 366.093(3)(d), Florida Statutes. This information shall be 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 FMPA 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 J. Terry Deason, as Prehearing Officer, that the Florida Municipal Power Agency’s Request for Confidential Classification of Document No. 03616-05 is granted. It is further

ORDERED that the information in Document No. 03616-05 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.

ORDERED that pursuant to Section 366.093, Florida Statutes, and Rule 25-22.006, Florida Administrative Code, any confidentiality granted to the documents specified herein shall expire eighteen (18) months from the date of issuance of this Order in the absence of a renewed request for confidentiality pursuant to Section 366.093. 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 J. Terry Deason, as Prehearing Officer, this 15th day of June, 2005.



J. TERRY DEASON
Commissioner and Prehearing Officer

(S E A L)

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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, 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.