

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Energy conservation cost recovery
clause.

DOCKET NO. 100002-EG
ORDER NO. PSC-10-0675-CFO-EG
ISSUED: November 12, 2010

ORDER GRANTING CONFIDENTIAL CLASSIFICATION FOR CERTAIN MATERIALS
OBTAINED DURING THE CONSERVATION COST RECOVERY AUDIT
(AUDIT NO. 09-350-4-2) OF FLORIDA PUBLIC UTILITIES COMPANY
(DOCUMENT NOS. 04846-10 AND 05250-10)

On June 24, 2010, pursuant to Section 366.093, Florida Statutes (F.S.), and Rule 25-22.006, Florida Administrative Code (F.A.C.), Florida Public Utilities Company (FPUC) filed a request for confidential classification of staff's Audit Work Papers numbered 45-3, consisting of four pages, associated with Audit Control No. 09-350-4-2. Document Nos. 04846-10 and 05250-10 are currently held by the Commission's Office of Commission Clerk as confidential pending resolution of FPUC's request for confidential classification. FPUC asserts that the confidential information in the documents is intended to be proprietary, is treated as proprietary, and has not been publicly disclosed. FPUC requests that the Commission grant confidential classification for the documents for a period of 18 months from the date of the issuance of this Order, pursuant to Section 366.093(4), F.S.

Section 366.093(1), F.S., provides that records that the Commission has found to contain proprietary confidential business information shall be kept confidential and shall be exempt from Chapter 119, F.S., Florida's Public Records Act. 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:

- (e) Information relating to competitive interests, the disclosure of which would impair the competitive business of the provider of the information.

FPUC asserts that the information for which it seeks confidential status consists of specific payroll allocations and payout amounts associated with a specific employee. FPUC further asserts that it maintains salary, compensation, and employee account information confidential in order to prevent other entities from raiding FPUC for its highly qualified, skilled employees. FPUC contends that the information for which it is requesting confidential classification is entitled to that classification pursuant to Section 366.093(3)(e), F.S., as proprietary confidential business information, the disclosure of which would impair the company's ability to compete for services, as well as its ability to retain qualified employees.

Upon review, it appears that the requested information satisfies the criteria set forth in Section 366.093(3)(e), F.S. The information contains competitive business information, the

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disclosure of which would impair the company's ability to compete for services and impair the competitive interests of its customers. Therefore, confidential classification for Documents Nos. 04846-10 and 05250-10 is granted.

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 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 FPUC or another affected person shows, and the Commission finds, that the information continues to contain proprietary confidential business information.

Based on the foregoing, it is

ORDERED by Commissioner Nathan A. Skop, as Prehearing Officer, that Florida Public Utilities Company's request for confidential classification of Document Nos. 04846-10 and 05250-10 is hereby granted as set forth herein. It is further

ORDERED that the information for which confidential classification has been requested will be granted confidential classification for a period of 18 months from the date of the issuance of this Order. It is further

ORDERED that this Order shall be the only notification by the Commission to the parties concerning the expiration of the confidentiality time period.

By ORDER of Commissioner Nathan A. Skop, as Prehearing Officer, this 12th day of November, 2010.



NATHAN A. SKOP
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; 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.