

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Fuel and Purchased Power)	DOCKET NO.	890001-EI
Cost Recovery Clause and Generating)	ORDER NO.	21658
Performance Incentive Factor)	ISSUED:	8-2-89
)		

ORDER GRANTING CONFIDENTIALITY TO PORTIONS
OF FPL'S RESPONSES TO
STAFF'S DOCUMENT/RECORD REQUESTS

Florida Power and Light Company (FPL), by letter dated June 13, 1989, has requested specified confidential classification of information responsive to Commission Staff's Document/Record Requests (D/RR) 1 and 3 dated May 24, 1989, identified as D/RR No. 1, Items 1,2, and 4b through 4e and D/RR No. 3. All of these documents contain information related to the company's fuel contracts. Disclosure of this information, FPL contends, would likely impair its ability to negotiate future contracts because it would inform potential bidders of current prices paid for services.

Section 366.093(1), Florida Statutes, states in pertinent part:

... Upon request of the public utility, any records received by the Commission which are shown to be proprietary confidential business information shall be kept confidential and shall be exempt from s. 119.07(1).

Subsection (3) of the section defines proprietary confidential business information as, among other things, information concerning bids or other contractual data, the disclosure of which would impair the efforts of the utility to contract for services on favorable terms. Our confidentiality rule states that classification of material as proprietary confidential business information can be justified by demonstrating how the information it contains falls under one or more of the statutory examples. Rule 25-22.006(4), Florida Administrative Code.

An examination of DN-6360-89, FPL's response to the Fuel Adjustment Audit D/RR No. 1, Item 2, shows that it contains information about fuel computer runs and fossil fuel inventory. The total quantity listed and the total receipts

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added together would indicate the actual contract price paid for plants which received deliveries from only one vendor.

An examination of DN-6360-89, FPC's response to D/RR No. 3 shows that it contains notes on internal audits, including internal audit procedures, and fuel contracts, including price and quantity. Both responses, therefore, contain confidential information which, if released, could affect the company's ability to contract for fuel on favorable terms.

FPL, itself, concedes that WP 25-3, page 2, of the information provided in response to D/RR No. 3, is not entitled to confidentiality, but is a contract that it has agreed to keep confidential. FPL has indicated that it is contacting the other party to be relieved of the confidentiality condition.

In consideration of the foregoing, it is

ORDERED that the information FPL seeks to protect from public disclosure provided in response to D/RR No. 3, identified as DN 6360-89, is confidential and shall continue to be exempt from the requirements of Seciton 119.67(1), Florida Statutes. It is further

ORDERED that the Commission will reserve ruling on FPL's request related to WP 25-3, page 2, until FPL indicates the results of its contact with the other party to the contract. It is further

ORDERED that if a protest is filed within 14 days of the date of this order it will be resolved by the appropriate Commission panel pursuant to Rule 25-22.006(3)(d), Florida Administrative Code.

By ORDER of Commissioner John T. Herndon, as Prehearing Officer, this 2nd day of AUGUST, 1989.

John T. Herndon
JOHN T. HERNDON, Commissioner
and Prehearing Officer

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