

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Energy conservation cost
recovery clause.

DOCKET NO. 000002-EG
ORDER NO. PSC-00-0628-CFO-EG
ISSUED: April 3, 2000

ORDER GRANTING MOTION FOR PROTECTIVE ORDER AND GRANTING
CONFIDENTIAL CLASSIFICATION FOR PORTIONS OF APPENDIX A TO
EXHIBIT LMB-1 (DOCUMENT NO. 06870-98)

Pursuant to Rule 25-22.006, Florida Administrative Code, and Section 366.093, Florida Statutes, Florida Power & Light Company (FPL) requests confidential classification for portions of Appendix A to Exhibit LMB-1 filed in Docket No. 980002-EG on June 30, 1998 (Document No. 06870-98). Further, FPL seeks a protective order which establishes that the procedure for any party or person desiring to review the confidential information in Appendix A should be the procedure set forth in Rule 25-17.006(7)(a), Florida Administrative Code, and which provides for either the return of the confidential information if it is not included in the record or the continued classification of the information, beyond eighteen months, if it is included in the record. Since the time that FPL's request was filed, this information has been included in the record in Docket No. 980002-EG.

FPL asserts that all of the information in Appendix A for which it seeks confidential classification is customer-specific information. FPL states that it has a corporate policy not to disclose or release customer-specific information without the consent of the customer, and that none of the customers referred to in Appendix A have consented to such a release. In addition, FPL asserts that much of this information is confidential and proprietary to customers, and its release would harm the customers' business operations. FPL states that this information has not been disclosed other than to contractors which have performed work at the customer's direction. Further, FPL asserts that this information may, in some instances, constitute trade secrets to the customers and, therefore, is information relating to the customers' competitive interests, the disclosure of which would impair the competitive business of the customers. Thus, FPL contends that this information is proprietary confidential business information within the meaning of Section 366.093(3), Florida Statutes.

DOCUMENT NUMBER-DATE

04057 APR-38

FPSC-RECORDS/REPORTING

DISCUSSION OF MATERIAL CLAIMED CONFIDENTIAL

FPL requests confidential classification for certain data sources and calculations in Appendix A used to substantiate advertised claims of energy savings for St. Lucie County Schools. Specifically, FPL seeks confidential treatment of the following portions of Appendix A: page 1B, columns A and B, lines 1-4; pages 1C-1D, lines 1-4 and columns A-H, lines 7-19; pages 1E-1H, lines 1-5 and columns A-H, lines 6-18; and pages 1I-1J, lines 1-6 and columns A-H, lines 7-19. FPL asserts that each data entry in these portions of Appendix A is customer specific information which FPL has a policy to treat as confidential and not to disclose. Such information includes: the amount of the customers' bills; the customers' account numbers and meter numbers; the rates under which the customer takes service; the customers' billing determinants; and the customers' addresses and phone numbers. FPL asserts that disclosure of this information would violate the customer's right to privacy.

FPL also seeks confidential classification for certain data sources and calculations in Appendix A used to substantiate advertised claims of energy savings for Sarasota Memorial Hospital. First, FPL seeks confidential treatment of the following portions of Appendix A: page 2B, lines 1-19; and page 2C, lines 1-18. FPL asserts that each data entry in these portions of Appendix A is customer specific information which FPL has a policy to treat as confidential and not to disclose. Such information includes operating hours of equipment, the size of equipment, the efficiency of equipment, and the ultimate kW demand and kWh usage to power the equipment. FPL asserts that this information relates to the customer's competitive interests, and, therefore, is protected by Section 366.093(3)(e), Florida Statutes. FPL further asserts that this information may be protected under Section 366.093(3)(a), Florida Statutes, as trade secrets of the customer.

Second, FPL seeks confidential treatment of the following portions of page 2D in Appendix A: line 1; column A, lines 2-6; column B, lines 7-15; columns C and D, lines 16-19; and lines 20-24. FPL asserts that each data entry in these portions of Appendix A is customer specific information which FPL has a policy to treat as confidential and not to disclose. This information includes the customer's address, the results of a Chiller Test Report, and the name of the contractor conducting the Chiller Test Report. FPL asserts that the disclosure of Chiller Test Report results could injure the competitive interests of its customers. FPL further

asserts that disclosure of contractors' names may provide customers' competitors with leads to track down confidential information about the customer. Therefore, FPL contends that this information is proprietary confidential information under Section 366.093(3)(e), Florida Statutes.

Third, FPL seeks confidential treatment of lines 1-5, on page 2E of Appendix A. FPL asserts that each data entry in this portion of Appendix A is customer specific information which FPL has a policy to treat as confidential and not to disclose. This information includes a list of chiller efficiencies. FPL asserts that the disclosure of such information will provide sensitive competitive information to customers' competitors about the customers' costs of operation. Therefore, FPL contends that this information is proprietary confidential information under Section 366.093(3)(e), Florida Statutes.

FPL also seeks confidential classification for certain data sources and calculations in Appendix A used to substantiate advertised claims of energy savings for Motorola. First, FPL seeks confidential treatment of the following portion of page 3B in Appendix A: lines 1 and 2 and columns A-D, lines 3-6. FPL asserts that each data entry in this portion of Appendix A is customer specific information which FPL has a policy to treat as confidential and not to disclose. This information includes the number of lighting projects performed for the customer, job numbers, and the cost, savings, and rebates to the customer. FPL asserts that disclosure of the number of lighting projects would provide competitive information about the scope of the retrofit effort. FPL asserts that disclosure of job numbers may provide information which a competitor could use to solicit from FPL job information such as customer costs, savings, and rebates. FPL asserts that customer costs, savings, and rebates are sensitive competitive information. Therefore, FPL contends that this information is proprietary confidential information under Section 366.093(3)(e), Florida Statutes.

Second, FPL seeks confidential treatment of the following portions of Appendix A: page 3C, lines 1-15; page 3D, lines 1-29; page 3E, lines 1-23; and page 3F, lines 1-18. FPL asserts that each data entry in this portion of Appendix A is customer specific information which FPL has a policy to treat as confidential and not to disclose. This information includes the following: job numbers; the customer's account number; the customer's address; names, addresses, and vendor numbers of contractors who performed work for

the customer; and information regarding the retrofit. FPL asserts that disclosure of job numbers may provide information which a competitor could use to solicit additional information about the job from FPL. FPL asserts that disclosure of the customer account number would provide a competitor with information it could use to solicit from FPL competitive information about the customer. FPL also asserts that disclosure of contractor information would provide a lead for a competitor to solicit information sensitive to the customer. Further, FPL asserts that information regarding the retrofit is sensitive, competitive information to the customer. Therefore, FPL contends that this information is proprietary confidential information under Section 366.093(3)(e), Florida Statutes.

FPL also seeks confidential classification for certain data sources and calculations in Appendix A used to substantiate advertised claims of energy savings for El Dorado Furniture. Specifically, FPL seeks confidential treatment of the following portion of Appendix A: page 4C, lines 1-19; and page 4D, lines 1-6. FPL asserts that each data entry in this portion of Appendix A is customer specific information which FPL has a policy to treat as confidential and not to disclose. This information is related to the nature and extent of retrofit projects for the customer and includes savings which resulted from those projects. FPL asserts that disclosure of this information would harm the customer's business and competitive interests, and, therefore, is proprietary confidential information under Section 366.093(3)(e), Florida Statutes.

FPL also seeks confidential classification for certain data sources and calculations in Appendix A used to substantiate advertised claims of energy savings for Augustan Wine. Specifically, FPL seeks confidential treatment of the following portion of Appendix A: page 5C, line 1; and page 5D, lines 1-7. FPL asserts that each data entry in this portion of Appendix A is customer specific information which FPL has a policy to treat as confidential and not to disclose. This information consists of the following: the customer's account number; installation costs and square footage; the savings and payback to the customer; and the rate under which the customer takes service. FPL asserts that disclosure of the customer account number would provide a competitor with information it could use to solicit from FPL competitive information about the customer. Further, FPL asserts that the disclosure of installation costs, square footage, customer savings, customer payback, and service rates would injure the

customer's business interests. Therefore, FPL contends that this information is proprietary confidential information under Section 366.093(3)(e), Florida Statutes.

FPL also seeks confidential classification for certain data sources and calculations in Appendix A used to substantiate advertised claims of energy savings for Salon 2000. First, FPL seeks confidential treatment of page 6C, lines 1-9 in Appendix A. FPL asserts that each data entry in this portion of Appendix A is customer specific information which FPL has a policy to treat as confidential and not to disclose. This information consists of the calculation of the customer's savings and includes the number of light fixtures, the efficiencies of the fixtures, the kW and kWh consumption of the fixtures, and the resulting costs of the old and new fixtures. FPL asserts that this information is sensitive, competitive information, the disclosure of which would harm the customer's business interests. Therefore, FPL contends that this information is proprietary confidential information under Section 366.093(3)(e), Florida Statutes.

Second, FPL seeks confidential treatment of page 6D, lines 1-6 and columns A and B, in Appendix A. FPL asserts that each data entry in this portion of Appendix A is customer specific information which FPL has a policy to treat as confidential and not to disclose. This information includes the customer's name, address, customer number, meter number, billing determinants and bill amounts. FPL asserts that this is competitive information, the disclosure of which would harm the customer's business interests. Therefore, FPL contends that this information is proprietary confidential information under Section 366.093(3)(e), Florida Statutes.

CONCLUSION

Upon review, it appears that the foregoing information is proprietary confidential business information as defined in Section 366.093(3), Florida Statutes, and that the disclosure of this information would impair the competitive business interests of certain FPL customers. Accordingly, this information is granted confidential classification.

The proprietary confidential business information discussed in this Order has been admitted into the record in Docket No. 980002-EG. As stated above, FPL requests that this information continue to be classified as confidential after the expiration of eighteen

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months if it is admitted into the record of this proceeding. In support of its request, FPL asserts that the information for which it seeks confidential classification will continue to be confidential after eighteen months. According to FPL, the information will still be treated by FPL as confidential as a matter of policy, and the information regarding customers' electrical usage and equipment will continue to be competitive information, the disclosure of which may injure the customers' competitive interests even after eighteen months.

Section 366.093(4), Florida Statutes, provides that "[a]ny finding by the commission that records contain proprietary confidential business information is effective for a period set by the commission not to exceed 18 months, unless the commission finds, for good cause, that the protection from disclosure shall be for a specified longer period." In its request, FPL does not specify a certain time period beyond 18 months, and the statute does not provide for an indefinite grant of confidential treatment. Thus, the information discussed in this Order shall be treated as confidential for a period of 18 months from the date of this Order. If FPL seeks continued confidential treatment of this information, it must file a separate request for such treatment prior to expiration of the 18 month period.

FPL further requests that any parties to this proceeding who wish to review and inspect this proprietary confidential business information be required to follow the procedure set forth in Rule 25-22.006(7)(a), Florida Administrative Code. FPL's request is reasonable and is hereby granted.

Based on the foregoing, it is

ORDERED by Commissioner Susan F. Clark, as Prehearing Officer, that Florida Power & Light Company's request for confidential classification and motion for protective order is hereby granted as set forth in the body of this Order. It is further

ORDERED that the information described within the body of this Order and contained in Document No. 06870-98 is granted confidential classification for a period of 18 months from the date of this Order. It is further

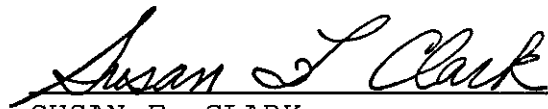
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ORDERED that, if Florida Power & Light Company seeks continued confidential classification of the information described in the body of this Order and contained in Document No. 06870-98 beyond 18 months from the date of this Order, it shall file a separate request for such treatment prior to expiration of the 18 month period. It is further

ORDERED that any parties to this proceeding who wish to review and inspect the proprietary confidential business information described in the body of this Order and contained in Document No. 06870-98 shall follow the procedures set forth in Rule 25-22.006(7)(a), Florida Administrative Code. It is further

ORDERED that this Order shall be the only notification by the Commission to the parties of the declassification date of this information.

By ORDER of Commissioner Susan F. Clark, as Prehearing Officer, this 3rd Day of April, 2000.



SUSAN F. CLARK
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.

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 25-22.038(2), 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 Records and Reporting, 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.

M E M O R A N D U M

April 3, 2000

RECEIVED-FPSC

00 APR -3 PM 1:41

RECORDS AND
REPORTING

TO: DIVISION OF RECORDS AND REPORTING
FROM: DIVISION OF LEGAL SERVICES (C. KEATING) WCK RVE
RE: DOCKET NO. 000002-EG - ENERGY CONSERVATION COST RECOVERY
CLAUSE.

0628-CFO

Attached is an Order Granting Motion for Protective Order and Granting Confidential Classification for portions of Appendix A to Exhibit LMB-1 (Document No. 06870-98) to be issued in the above-referenced docket. (Number of pages in order - 8)

WCK/jb
Attachment
cc: Division of Electric and Gas
I:000002cc.wck

MUST GO TODAY

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