

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Request for confidential classification of certain information contained in report of interruptions and curtailments, filed pursuant to Rule 25-6.018, F.A.C., by Florida Power & Light Company.

DOCKET NO. 991698-EI
ORDER NO. PSC-00-1178-CFO-EI
ISSUED: June 29, 2000

ORDER GRANTING REQUEST FOR CONFIDENTIAL CLASSIFICATION

As required by Rule 25-6.018, Florida Administrative Code, on November 5, 1999, and February 21, 2000, Florida Power & Light Company (FPL) filed Reports on Interruptions and Curtailments (reports) pursuant to FPL's interruption and curtailment rate schedules. Subsection (3) of Rule 25-6.018 requires utilities to provide the names of customers interrupted or curtailed in addition to the date, time, duration, and reason for the interruption. By separate petitions, FPL seeks confidential treatment for the names of the nongovernmental customers that are included in its reports pursuant to Rule 25-22.006, Florida Administrative Code, and Section 366.093, Florida Statutes. FPL filed an amended request for confidential classification for both reports on June 9, 2000.

Pursuant to Section 119.01, Florida Statutes, documents submitted to this Commission are public records. The only exceptions to this law are specific statutory exemptions and exemptions granted by governmental agencies pursuant to the specific terms of a statutory provision.

Under Section 366.093, Florida Statutes, and Rule 25-22.006, Florida Administrative Code, the utility has the burden of demonstrating that the materials qualify for confidential classification. Rule 25-22.006 requires the utility to meet this burden by demonstrating that the materials fall into one of the statutory examples set forth in Section 366.093, or by demonstrating that the information is proprietary confidential business information, the disclosure of which will cause the utility or its ratepayers harm.

FPL seeks confidential treatment for the names of its nongovernmental customers included on its reports. According to FPL, the utility considers this information to be proprietary confidential business information of the customer and does not

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disclose such information to third parties unless required by law or unless the customer consents to the disclosure. FPL has withheld the names of nongovernmental customers on the reports to avoid disclosing specific rate and contract information associated with these accounts.

FPL's customers also consider this information to be confidential. FPL's customers have indicated that the redacted information relates to their competitive interests, the disclosure of which could cause them competitive harm. For many of these customers, electric usage is an important part of their production or operating costs. Disclosure of rate or contract information, as well as consumption levels or patterns, could provide competitors with commercially sensitive information that would provide the competitors with an unfair advantage.

Even though the potential harm from disclosure may vary from customer to customer, FPL has adopted a uniform policy of not disclosing customer-specific rate and contract information unless required by law or upon the consent of the customer. Practically speaking, it would be difficult if not impossible to make a case-by-case determination as to what level of protection each customer's data may merit. In addition, customer confidence in the integrity of this policy is important for both FPL and its customers. If customers lose faith in FPL's ability to preserve the confidentiality of customer-specific information, they may be more selective in the types of information they allow FPL to compile and retain. This may include customers declining to participate in voluntary utility-sponsored programs such as research projects, customer focus groups, or experimental or special rate offerings. Such a result would impair FPL's ability to conduct its business and improve and expand its service to customers.

FPL argues that the information for which it seeks confidential treatment falls under the following category listed below in Section 366.093(3), Florida Statutes:

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

I agree that the redacted nongovernmental customer names on the reports should be treated as proprietary confidential business information. However, I disagree that this information should be

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confidential because it falls under Section 366.093(3)(e), Florida Statutes. Instead, I believe it should be protected because disclosure of this information would cause harm to the ratepayers, as discussed above.

FPL requested that the proprietary confidential business information discussed above be returned at the expiration of the 18-month confidential period. This request is denied. The Commission cannot return reports to FPL that were required by Commission rule. The reports must be kept in accordance with the record retention schedule prescribed by Florida law. Should FPL desire continued confidential treatment of the reports, it must request an extension before the expiration of the 18-month period granted herein.

It is therefore

ORDERED by Commissioner E. Leon Jacobs, Jr., as Prehearing Officer, that the Requests for Confidential Classification of certain information contained in Florida Power & Light Company's Reports of Interruptions dated November 5, 1999, and February 21, 2000, identified in Document Nos. 13640-99 and 02359-00 are hereby granted pursuant to Rule 25-22.006, Florida Administrative Code, and Section 366.093, Florida Statutes, for the reasons set forth in the body of this order. It is further

ORDERED that pursuant to Section 366.093, Florida Statutes, and Rule 25-22.006, any confidential classification granted to the reports specified herein shall expire 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

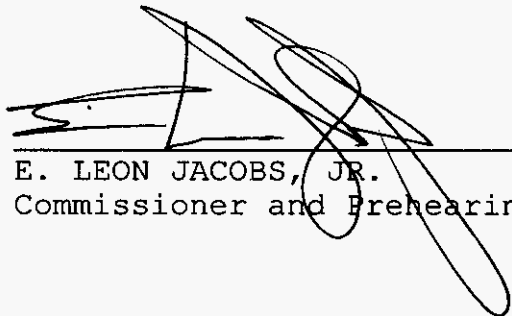
ORDERED that this order shall be the only notification by the Commission to Florida Power & Light Company concerning the expiration of the confidentiality time period. It is further

ORDERED that Florida Power & Light Company's requests for the reports to be returned are denied. It is further

ORDERED that this docket shall be closed upon issuance of this order.

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By ORDER of Commissioner E. Leon Jacobs, Jr. as Prehearing Officer, this 29th day of June, 2000.



E. LEON JACOBS, JR.
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, 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

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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.