

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Energy Conservation Cost
Recovery.

DOCKET NO. 010002-EG
ORDER NO. PSC-01-2266-CFO-EG
ISSUED: November 19, 2001

ORDER GRANTING CONFIDENTIAL CLASSIFICATION FOR PORTIONS OF
APPENDIX A TO EXHIBIT DR-1 (Document No. 6066-01)
AND GRANTING IN PART MOTION FOR PROTECTIVE ORDER

Rule 25-17.015, Florida Administrative Code, requires that a utility seeking conservation cost recovery for a conservation advertisement that "makes a specific claim of potential energy savings or states appliance efficiency ratings or savings" must include in the true up filing "all data sources and calculations used to substantiate these claims." Florida Power & Light Company (FPL) asserts that Appendix A to Exhibit DR-1, filed with the Commission as part of its true up filing, contains confidential information. The document is filed with the Commission as Document No. 6066-01.

Pursuant to Rule 25-22.006, Florida Administrative Code and Section 366.093, Florida Statutes, FPL requests confidential classification of Document No. 6066-01. Additionally, FPL seeks a protective order (1) acknowledging that FPL has served redacted copies of Appendix A on all parties, (2) requiring any party or person who desires to review the confidential material in Appendix A to file with the Commission, pursuant to Rule 25-22.006(7)(a), Florida Administrative Code, a petition to inspect and examine the confidential information in Appendix A to Exhibit DR-1, (3) requiring that the confidential information in Appendix A be returned to FPL after the close of this proceeding if not admitted into the record, and (4) finding that if Appendix A is admitted into the record in this proceeding, that FPL has shown good cause for the confidential information in Appendix A to continue to be classified as confidential for a period of 36 months.

REQUEST FOR CONFIDENTIAL CLASSIFICATION

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

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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 who 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.

DISCUSSION OF MATERIAL CLAIMED CONFIDENTIAL

Specifically, FPL seeks confidential treatment of the following portions of Appendix A:

Page 1-H, Lines 1-23. FPL asserts that this is customer specific information because it is information relating to the nature and extent of the retrofit projects the customer undertook and the resulting savings the customer experienced. FPL maintains that disclosure of this information would be the disclosure of sensitive competitive information which would harm the customer's business and competitive interests.

Page 2-B, Lines 1-9. FPL asserts that this is customer specific information which FPL has a policy not to disclose. FPL maintains that the confidential information within is the calculation of the savings experienced by the customer, which includes such sensitive competitive information as the number of light fixtures, the efficiencies of fixtures, the kW and kWh consumption of the fixtures and resulting costs of the old and new fixtures. FPL states that all this information would be valuable to a competitor of the customer and its disclosure would harm the customer's business interests.

Page 2-C, Lines 1-7, Columns A and B. FPL asserts that the name, address, customer number and meter number of each customer is customer specific information the disclosure of which would violate the customer's privacy. Further, the disclosure of billing

determinants and the resulting bill amounts, whether by month or on average, is competitive information which, if disclosed, would harm the customer's business interests.

Page 3-C, Line 1. FPL asserts this is customer specific information which FPL has a policy to treat as confidential and not disclose. FPL maintains the savings experienced by the customer is competitive information, disclosure of which would injure the customer's business interest.

Page 3-D, Lines 1-7. FPL asserts this is customer specific information which FPL has a policy to treat as confidential and not disclose. FPL maintains it does not disclose customer account numbers, and competitors could use such information to solicit from FPL more detailed information about the customer. Further, FPL states installation costs and square footage are competitive information the disclosure of which would injure the customer's business interests. The remainder of the information shows the calculation of the savings and payback to the customer, or the rate under which the customer takes service, the disclosure of which would injure the customer's business interests.

FPL further requests that the information contained in Appendix A to Exhibit DR-1 continue to be classified as confidential for a period of thirty-six months from the original confidential classification. FPL asserts that the information regarding customers' electrical usage and electrical equipment will continue to be competitive information the disclosure of which may injure the customers' competitive interest even after 18 months.

CONCLUSION

Upon review, the information that FPL filed as part of Appendix A to Exhibit DR-1 to the true up filing appears to be customer specific information, and therefore, proprietary confidential business information within the meaning of Section 366.093(3), Florida Statutes. It relates to competitive interests, and harm to the company or its ratepayers could result from public disclosure. Further, FPL has shown good cause that the information regarding customers' electrical usage and electrical equipment is competitive information the disclosure of which may injure the customers' competitive interest even after 18 months. Therefore,

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FPL's request for confidential treatment of Appendix A to Exhibit DR-1 of the true up filing is granted. The information regarding customers' electrical usage and electrical equipment will remain confidential for 36 months.

MOTION FOR PROTECTIVE ORDER

FPL seeks a protective order acknowledging that FPL has served only redacted copies of Appendix A on all parties. FPL has not demonstrated why a protective order is required to address this procedure. Accordingly, there is no need to rule on this request.

FPL further requests that the protective order require that persons desiring to review material in Appendix A file with the Commission a petition to inspect and examine that material. Rule 25-22.006(7)(a), Florida Administrative Code requires such a filing, so there is no need to rule on this request.

In addition, FPL asks that the Commission include in the protective order that confidential information in Appendix A be returned to FPL after the close of this proceeding, if not admitted into the record. Section 366.093(2), Florida Statutes, sets the time frames for returning confidential information to the party if it is not entered into the record. The Commission will adhere to those time frames. Therefore, there is no need for a ruling on this request.

FPL's request that the information be held confidential for 36 months is addressed in the discussion regarding confidentiality. To the extent that a protective order is required, FPL's request is granted.

It is therefore,

ORDERED by Commissioner Lila A. Jaber, as Prehearing Officer, that Florida Power & Light Company's request for confidential classification of Appendix A to Exhibit DR-1 of the True Up Filing (Document No. 6066-01) is granted. It is further

ORDERED that pursuant to Section 366.093, Florida Statutes, and Rule 25-22.006, Florida Administrative Code, that the

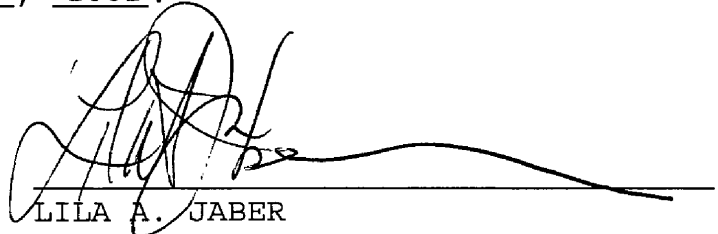
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information granted confidential classification shall remain confidential for 36 months. It is further

ORDERED that Florida Power & Light Company's Motion for Protective Order is granted in part, as set forth in this Order. 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 Lila A. Jaber, as Prehearing Officer, this 19th day of November, 2001.



LILA A. JABER
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.

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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 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.