

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Fuel and purchased power
cost recovery clause and
generating performance incentive
factor.

DOCKET NO. 010001-EI
ORDER NO. PSC-01-2530-CFO-EI
ISSUED: December 28, 2001

ORDER GRANTING FLORIDA POWER & LIGHT COMPANY'S
REQUEST FOR CONFIDENTIAL CLASSIFICATION AND
DENYING MOTION FOR PROTECTIVE ORDER
(DOCUMENT NO. 12005-01)

On September 24, 2001, Florida Power & Light Company (FPL) filed a request for confidential classification of certain information responsive to Staff's First Request for Production of Documents and First Set of Interrogatories (Confidential Information). The information for which confidential treatment is requested is contained in Document No. 12005-01.

FPL further requests that the Commission enter a protective order requiring any person wishing to review the Confidential Information to file a petition to inspect and examine the confidential information pursuant to Rule 25-22.006(7)(a), Florida Administrative Code. FPL also requests that the Confidential Information be returned to FPL at the close of this proceeding and confidential status be retained until that time.

INFORMATION FOR WHICH CONFIDENTIAL CLASSIFICATION IS SOUGHT

FPL requests confidential classification for the following information:

Description	No. of Pages	Line/Column No.
Interrogatory No. 9		Response
Interrogatory No. 14		Response
Interrogatory No. 15		Response
Interrogatory No. 54 Contract List	5	Att. 1, p. 1-5, Col. A

DOCUMENT NUMBER-DATE

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Description	No. of Pages	Line/Column No.
Interrogatory No. 56 Contract List	4	Att. 1, p. 1-4, Col. A
Interrogatory No. 58	1	Att. 1, p. 1, Col. A, line 1-45; Col. E, line 1-32
Interrogatory No. 60	1	Att. 1, p. 1, Col A, line 1-46; Col. E, line 1-31
Interrogatory No. 78		Response
Production of Documents No. 1 Policy and Procedures Manuals	84	All documents in entirety
Production of Documents No. 2 Board Mtg. Minutes	3	p. 1-3
Production of Documents No. 23 Strategy Letter Risk Limits Strategy Papers Position Strategy Position Strategy Transaction Detail Documents Transaction Detail Documents	33	p. 1-3 p. 16, col. C & D p. 17-18 p. 19, lines 7-28 p. 20, lines 3-26 p. 21, 23-33, col. A-H p. 22, Col. A, C, D, F, G, I, J, L.
Production of Documents No. 24 Monthly Forecasts Project Proposal	149	p. 1-49 p. 141-149

Description	No. of Pages	Line/Column No.
Production of Documents No. 28 Transaction Detail Documents Transaction Detail Documents Transaction Detail Documents Transaction Detail Documents Transaction Detail Documents Transaction Detail Documents Transaction Detail Documents Transaction Detail Documents	8	p. 1, Col. D, line 2, 3, 6, 8, 12-16, 19-20; Col. F, line 24 p. 2, line 3, 4, 7, 12, 14, 22, 24-26 p. 3, Col. B, line 4 p. 4, line 2, 3, 5-45 p. 5, line 1-49 p. 6, line 1-16 p. 7, line 1, 2, 4-6, 17 p. 8, line 8-23
Production of Documents No. 30	1	p. 1, Col. A-H
Production of Documents No. 32	1	p. 1, col. A-H
Production of Documents No. 33	1	p. 1, col. A-H

FPL states that the Confidential Information relates to the operations of FPL's Energy Marketing and Trading Division. It describes confidential and proprietary procedures and systems for the purchase, sale and trading of energy, fuels and financial instruments. The disclosure of such information, which relates to FPL's actions in highly competitive market environments, would impair the competitive business interests of FPL. Additionally, FPL asserts that much of the Confidential Information contains customer-specific and vendor-specific information, such as contract prices and other contract related information. FPL maintains that disclosure of such information would further impair FPL's ability

to contract on favorable terms in the future, and could also impair the business interests of FPL's vendors and customers.

Upon review, it appears as if the foregoing information is proprietary confidential business information "concerning bids or other contractual data, the disclosure of which would impair the efforts of the public utility or its affiliates to contract for goods or services on favorable terms." Section 366.093(3)(d), Florida Statutes. This information also appears to be "information relating to competitive interests, the disclosure of which would impair the competitive business of the provider of the information." Section 366.093(3)(e), Florida Statutes. Accordingly, it is granted confidential classification.

Section 366.093(4), Florida Statutes provides that any finding by the Commission that records contain proprietary confidential business information shall be effective for a period not to exceed 18 months, unless the Commission finds good cause to specify a longer period. As such, the information contained in Document No. 12005-01 shall be granted confidential classification for a period of eighteen months from the date of issuance of this Order.

MOTION FOR PROTECTIVE ORDER

FPL requests that a protective order be issued requiring that persons desiring to review the Confidential Information file a petition with the Commission 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 a protective order that the Confidential Information 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 if it is not entered into the record. At the hearing in this docket, the Commission approved a stipulation to consider the issues to which this information relates in a separate generic proceeding, Docket No. 011605-EI. At the conclusion of that proceeding, this information will be treated as required by Section 366.093(2), Florida Statutes. Therefore, there is no need for a protective order.

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Based on the foregoing, it is

ORDERED by Commissioner Lila A. Jaber, as Prehearing Officer, that Florida Power & Light Company's request for confidential classification of the above listed portions of Florida Power & Light Company's responsive information to Staff's First Request for Production of Documents and First Set of Interrogatories is granted. It is further

ORDERED that Florida Power & Light Company's Motion for Protective Order is denied. It is further

ORDERED that pursuant to Section 366.093, Florida Statutes, and Rule 25-22.006, Florida Administrative Code, any confidentiality granted to the documents specified herein shall expire eighteen (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 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 28th day of December, 2001.



LILA A. JABER
Commissioner and Prehearing Officer

(S E A L)

LHD

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 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.