

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Energy conservation cost
recovery clause.

DOCKET NO. 020002-EG
ORDER NO. PSC-02-0933-CFO-EG
ISSUED: July 11, 2002

ORDER GRANTING CONFIDENTIAL CLASSIFICATION FOR PORTIONS
OF APPENDIX A TO EXHIBIT DR-1 (Document No. 05233-02)

Pursuant to Rule 25-17.015, Florida Administrative Code, 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 was filed with the Commission as Document No. 05233-02.

Pursuant to Section 366.093, Florida Statutes, and Rule 25-22.006, Florida Administrative Code, FPL requests confidential classification of Document No. 05233-02. FPL further requests 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

In support of its request, 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 the customer referred to in Appendix A has not consented to such a release. In addition, FPL asserts that much of this information for which it is seeking confidential classification is confidential and proprietary to the customer, the release of which would harm the customer's business operations. FPL states that this information may, in some instances, constitute trade secrets to the customers, and is certainly information relating to the customer's

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business operations. Further, the disclosure of such information would impair the competitive business of the customer. 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 classification of the following portion of Appendix A:

Page 1-C, Lines 1,2,3, and Columns B,C,E,F. FPL asserts that this is customer-specific information because it is information related 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.

FPL further states that at present, it is not FPL's intent to offer Appendix A to Exhibit DR-1 into evidence; FPL is filing the Appendix only to satisfy the requirements of Rule 25-17.014(4), Florida Administrative Code. Thus, FPL requests that the Commission require the return of Appendix A if it is not admitted into evidence in this proceeding.

FPL further states that the information for which FPL seeks confidential classification will continue to be confidential after 18 months as a matter of policy, and the information regarding the customer's electrical usage and electrical equipment will continue to be competitive information, the disclosure of which may injure the customer's competitive interest even after 18 months. Thus, FPL requests that the Commission rule that the information contained in Appendix A continue to be classified as confidential for a period of 36 months from the original confidential classification.

CONCLUSION

Upon review, the information that FPL files 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 the nature and extent of the retrofit projects the customer undertook and the resulting savings the customer experienced is competitive information, the disclosure of which may injure the customer's competitive interest even after 18 months.

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

FPL has requested that the Commission return Appendix A if it is not admitted into evidence in this proceeding. Rule 25-22.006(9)(b), Florida Administrative Code, states that when confidential information is no longer needed for the Commission to conduct its business, the Commission shall order all persons holding such information to return it to the utility or person providing the information. Thus, it is unnecessary to rule on this request. Accordingly, if Appendix A is not entered into evidence in this proceeding, those documents shall be returned to FPL as a matter of course.

Based on the foregoing, it is

ORDERED by Commissioner Michael A. Palecki, 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. 05233-02) is granted. It is further

ORDERED that pursuant to Section 366.093, Florida Statutes, and Rule 25-22.006, Florida Administrative Code, that the information granted confidential classification shall remain confidential for 36 months. It is further

ORDERED that this Order will be only notification by the Commission to the parties concerning the expiration of the confidentiality time period.

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By ORDER of Commissioner Michael A. Palecki, as Prehearing Officer, this 11th day of July, 2002.



MICHAEL A. PALECKI
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.

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

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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.