

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Review of investor-owned electric utilities' risk management policies and procedures.

DOCKET NO. 011605-EI
ORDER NO. PSC-03-0021-CFO-EI
ISSUED: January 6, 2003

ORDER GRANTING REQUEST FOR CONFIDENTIAL CLASSIFICATION
(DOCUMENT NO. 06096-02)

On June 12, 2002, pursuant to Section 366.093, Florida Statutes, and Rule 25-22.006, Florida Administrative Code, Florida Power Corporation (Florida Power) filed a request for confidential classification of specified information on pages 55 and 56 of the draft copy of the Commission Staff's audit report entitled "Internal Controls of Florida's Investor-Owned Utilities for Fuel and Wholesale Energy Transactions" (Document No. 06096-02) submitted to Florida Power under cover of a letter dated May 30, 2002.

Section 366.093(1), Florida Statutes, provides that "any records received by the commission which are shown and found by the commission to be proprietary confidential business information shall be kept confidential and shall be exempt from [the Public Records Act]." Section 366.093(3), Florida Statutes, defines proprietary confidential business information as information that is intended to be and is treated by the company as private, in that disclosure of the information would cause harm to the company's ratepayers or business operations, and has not been voluntarily disclosed to the public. Section 366.093(3)(d), Florida Statutes, provides that proprietary confidential business information includes, but is not limited to, "[i]nformation 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." Further, Section 366.093(3)(e), Florida Statutes, provides that proprietary confidential business information includes "[i]nformation relating to competitive interests, the disclosure of which would impair the competitive business of the provider of the information."

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Florida Power contends that the specified information on pages 55 and 56 (found under the headings "Coal," "Oil," "Natural Gas," and "Purchased Power") falls within the category of information concerning contractual data, the disclosure of which would impair Florida Power's ability to contract for goods or services on favorable terms, and thus constitutes proprietary confidential business information entitled to protection under Section 366.093, Florida Statutes, and Rule 25-22.006, Florida Administrative Code. Florida Power states that this information is intended to be and is treated by Florida Power as private and has not been publicly disclosed.

Florida Power asserts that disclosure of this information would place it at a disadvantage against its potential suppliers of fuel and wholesale power by giving them otherwise unavailable knowledge of the specific types and quantities of fuel and wholesale power that Florida Power must purchase, the terms (long-term, mid-term, short-term, or spot) of Florida Power's contracts for fuel and wholesale power, and, in the case of oil and wholesale power, other procurement details under which the quantities of each fuel type and wholesale power will be purchased. Florida Power contends that disclosure of this information would allow potential suppliers to tailor their bids according to Florida Power's specific fuel and wholesale power needs and purchasing strategies and, thus, would prevent Florida Power from receiving suppliers' best terms and lowest prices. Florida Power concludes that these effects of disclosure would impair its efforts to contract for goods and services on favorable terms for the benefit of its customers.

Upon review, it appears that the specified information on pages 55 and 56 of the draft audit report satisfies the criteria set forth in Section 366.093(3), Florida Statutes, for classification as proprietary confidential business information and, thus, shall be treated as confidential. Specifically, the information in Section IV constitutes "[i]nformation 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." Thus, this information is granted confidential classification.

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Pursuant to Section 366.093(4), Florida Statutes, the information for which confidential classification is granted herein shall remain protected from disclosure for a period of 18 months from the date of issuance of this order. At the conclusion of the 18 month period, the confidential information will no longer be exempt from Section 119.07(1), Florida Statutes, unless Florida Power or another affected person shows, and the Commission finds, that the records continue to contain proprietary confidential business information.

Based on the foregoing, it is

ORDERED by Commissioner Michael A. Palecki, as Prehearing Officer, that Florida Power Corporation's Request for Confidential Classification of Document No. 06096-02 is granted. It is further

ORDERED that the information in Document No. 06096-02 for which confidential classification has been granted shall remain protected from disclosure for a period of 18 months from the date of issuance of this order. It is further

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

By ORDER of Commissioner Michael A. Palecki, as Prehearing Officer, this 6th day of January, 2003.



MICHAEL A. PALECKI
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 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.