

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Energy conservation cost  
recovery clause.

DOCKET NO. 030002-EG  
ORDER NO. PSC-03-1198-CFO-EG  
ISSUED: October 22, 2003

ORDER GRANTING CONFIDENTIAL CLASSIFICATION FOR PORTIONS OF  
SCHEDULE CT-6 AND APPENDIX A, PAGE 1-B (Document No. 04357-03)

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 its true up filing, "all data sources and calculations used to substantiate these claims." Florida Power and Light (FPL) asserts that portions of Schedule CT-6 and Appendix A, page 1-B to Exhibit KG-1, filed with the Commission as part of its true-up filing, contains confidential information. This information was filed with the Commission as Document No. 04357-03.

Pursuant to Section 366.093, Florida Statutes, and Rule 25-22.006, Florida Administrative Code, FPL requests confidential classification of Document No. 04357-03, FPL further requests that if Schedule CT-6 and Appendix A, page 1-B are admitted into the record in this proceeding, that FPL has shown good cause for the confidential information in Schedule CT-6 and Appendix A, page 1-B to continue to be classified as confidential for a period of thirty-six months.

REQUEST FOR CONFIDENTIAL CLASSIFICATION

In support of its request, FPL asserts that all of the information in Schedule CT-6 and Appendix A, page 1-B to Exhibit KG-1, 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 the FPL customers that are referred to in this information have not consented to the release of its customer specific information. In addition, much of the information for which FPL seeks confidential classification is information which is confidential and propriety to the customer, the release of which would harm the customers' business operation.

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FPL states that this information may, in some instances, constitute trade secrets to the customers, and is certainly information relating to the customers' competitive interests, the disclosure of which would impair the competitive business of the customers. According to FPL, information of this nature is proprietary confidential business information within the meaning of Section 366.093(3), Florida Statutes.

DISCUSSION OF MATERIALS CLAIMED CONFIDENTIAL

Specifically, FPL seeks confidential classification of the following portions of Schedule CT-6 and Appendix A to Exhibit KG-1:

Schedule CT-6 to Exhibit KG-1, Line 3 of Page Nos. 15-19, 21-31, 33-43, and 45-50. FPL asserts that each data entry found on line three of these pages is customer-specific information, which FPL has a policy to treat as confidential and not disclose. FPL states that the unredacted portions of this exhibit contain customer-specific incentives and energy and demand savings which are competitively sensitive to the customer. However, by redacting the customer's name, this information is protected.

Appendix A to Exhibit KG-1, Page 1-B, 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 customers undertook and the resulting savings the customers experienced. FPL maintains that disclosure of this sensitive competitive information would harm the customer's business and competitive interests.

Furthermore, FPL asserts that at present, it is not its intent to offer Appendix A, page 1-B to Exhibit KG-1 or the confidential portion of Schedule CT-6 to Exhibit KG-1 into evidence. According to FPL, it is filing these materials only to satisfy the requirements of Rule 25-17.015(4), Florida Administrative Code, and Order No. PSC-93-0472-FOF-EG. Thus, FPL requests that the Commission require the return of Appendix A, page 1-B, and the confidential portion of Schedule CT-6 to FPL, if these particular documents are not admitted into evidence in this proceeding.

FPL further states that the information for which it is seeking confidential classification will continue to be

confidential after 18 months. FPL states that these materials will be treated by FPL as confidential as a matter of policy, and 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. Accordingly, FPL requests that the Commission rule that the information contained in Schedule CT-6 and Appendix A, page 1-B to Exhibit KG-1, continue to be classified as confidential for a period of 36 months from the original confidential classification.

#### CONCLUSION

Upon review, the information for which FPL seeks confidential classification 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 of this information. Further, FPL has shown good cause that the information for which it seeks confidential classification will continue to be confidential after the expiration of eighteen months. The company's competitive interests, which would be damaged by the release of this information, will still exist after eighteen months, and most of the equipment and related information about usage and efficiencies will continue to be relevant for years to come.

Therefore, FPL's request for confidential classification of Schedule CT-6 and Appendix A, page 1-B to Exhibit KG-1 is granted. Furthermore, this information shall continue to be classified as confidential for a period of thirty-six months from the date of this Order.

FPL has requested the Commission return the confidential information in Schedule CT-6 and Appendix A, page 1-B if 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 Schedule CT-6 and Appendix A, page 1-B to Exhibit

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KG-1 is not entered into evidence in this proceeding, these documents shall be returned to FPL as a matter of course.

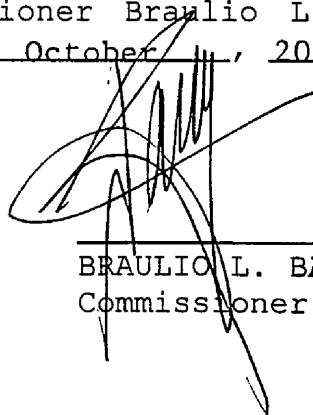
Based on the foregoing, it is

ORDERED by Commissioner Braulio L. Baez, as Prehearing Officer, that Florida Power & Light Company's request for confidential classification of Schedule CT-6 and Appendix A, page 1-B to Exhibit KG-1 (Document No. 04357-03) 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 from the date of this Order. It is further

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

By ORDER of Commissioner Braulio L. Baez, as Prehearing Officer, this 22nd day of October, 2003.

 for Commissioner Braulio Baez

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BRAULIO L. BAEZ  
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; or (2) 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.