

BEFORE THE PUBLIC SERVICE COMMISSION

In re: Petition to determine need for Turkey
Point Unit 5 electrical power plant, by Florida
Power & Light Company.

DOCKET NO. 040206-EI
ORDER NO. PSC-04-0562-CFO-EI
ISSUED: June 1, 2004

ORDER GRANTING CONFIDENTIAL TREATMENT

On April 16, 2004, FPL filed a Notice of Intent to request confidential treatment of certain information filed by FPL in response to Interrogatory No. 23 of Commission Staff's first set of interrogatories. On May 7, 2004, Florida Power & Light Company (FPL) filed a request for confidential classification of the information. The information was filed with the Commission as Document No. 05371-04. Pursuant to discussions with staff, FPL filed an amended request for confidential classification on May 27, 2004. The information for which FPL seeks confidential treatment in its amended request was filed as Document No. 06062-04.

In support of its request, FPL asserts that the marked information contained in its May 27, 2004, amended petition is entitled to confidential classification pursuant to Section 366.093(3)(d) and (e), Florida Statutes, as proprietary confidential business information. The information consists of competitively sensitive contractual data included in short-term firm capacity agreements with third-party suppliers. FPL asserts that public disclosure of this information would impair FPL's ability to contract for short-term power supply on favorable terms and would impair the competitive interests of FPL and those suppliers.

FPL has supplied a page-by-page listing of the specific information in its response to Staff's Interrogatory No. 23 which it asserts is confidential; as illustrated in the following table:

<u>Page</u>	<u>Line No.</u>	<u>Description</u>
Page 1 of 2	13, 17, 24, 28, 35	Prices for capacity payments and energy charges per FPL's short-term firm capacity agreements with third-party suppliers
Page 2 of 2	7-8, 13, 16-17	Prices for capacity payments and energy charges per FPL's short-term firm capacity agreements with third-party suppliers

I have reviewed the listing supplied by FPL, and have determined that it adequately and sufficiently identifies the specific information for which FPL requests confidentiality, in compliance with Rule 25-22.006, Florida Administrative Code.

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. FPL contends that even after 18 months, the price of capacity payments and energy charges per the

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terms of these short-term capacity contracts will continue to be sensitive contract data, and will still be treated as confidential by FPL. FPL therefore requests that the Commission rule that the information continue to be classified as confidential for a period of 36 months from the date of its confidential classification, as permitted by Section 366.093(4), Florida Statutes.

Upon review, it appears that the information specified herein meets the definition of proprietary, confidential business information in Section 366.093(3), Florida Statutes, which, if disclosed, would cause irreparable harm to the business interests of FPL. Accordingly, FPL's request for confidential classification for the information specified herein is granted. However, I find that an effective period of 18 months should be sufficient to protect FPL's interests in this matter. At the expiration of the 18-month period, FPL may petition to renew its request for confidentiality pursuant to Section 366.093, Florida Statutes, as it deems necessary. Therefore, Document No. 06062-04, in accord with Section 366.093(4), Florida Statutes, shall be granted confidential classification for a period of 18 months from the date of issuance of this Order.


Based on the foregoing, it is

ORDERED by Rudolph "Rudy" Bradley, as Prehearing Officer, that Florida Power and Light Company's amended request for confidential classification, filed May 27, 2004, is granted as set forth in the body of this Order. 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 Rudolph "Rudy" Bradley, as Prehearing Officer, this
1st day of June, 2004.



RUDOLPH "RUDY" BRADLEY
Commissioner and Prehearing Officer

(S E A L)

JSB

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.