

BEFORE THE PUBLIC SERVICE COMMISSION

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

DOCKET NO. 040001-EI
ORDER NO. PSC-04-1008-CFO-EI
ISSUED: October 18, 2004

ORDER GRANTING IN PART AND DENYING IN PART REQUEST
FOR CONFIDENTIAL CLASSIFICATION
(DOCUMENT NO. 04667-04)

On April 20, 2004, pursuant to Section 366.093, Florida Statutes, and Rule 25-22.006, Florida Administrative Code, Florida Power & Light Company (FPL) filed a request for confidential classification of portions of Exhibit GJY-1 to the prepared direct testimony of Gerald J. Yupp filed on April 1, 2004 (Document No. 04667-04).

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), Florida Statutes, provides that proprietary confidential business information includes, but is not limited to “[t]rade secrets” (subsection a); “[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” (subsection d); and “[i]nformation relating to competitive interests, the disclosure of which would impair the competitive business of the provider of the information” (subsection e).

FPL contends that portions of Exhibit GJY-1 to the prepared direct testimony of Mr. Yupp fall within these categories and thus constitutes proprietary confidential business information entitled to protection under Section 366.093, Florida Statutes, and Rule 25-22.006, Florida Administrative Code. FPL states that it seeks confidential classification for fuel hedging information because it comprises trade secrets of FPL, which allow FPL to purchase and sell fuel and electric power on favorable terms for FPL and its customers. According to FPL, the disclosure of that trade secret information would provide other participants in the fuel and electric power markets insight into FPL’s marketing and trading practices that would allow them to anticipate FPL’s marketing and trading decisions and impair FPL’s ability to negotiate. FPL asserts that the fuel hedging information also relates to bids and other contractual data, the disclosure of which would impair FPL’s ability to contract for fuel and electric power on favorable terms. FPL states that this information is intended to be and is treated by FPL as private and has not been publicly disclosed.

DOCUMENT NUMBER-DATE

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FPSC-COMMISSION CLERK

Upon review, I find that the requested information is confidential for the reasons identified by the company, with the exception of certain information as indicated in the chart below. The information for which confidential classification is denied references monthly transaction totals and does not reveal any information regarding contractual data or information concerning individual transactions, trade secrets, marketing or trading practices. The information for which FPL requests confidential classification and the ruling on each item is set forth below:

Page, Line, and Column No.	Ruling
Page 1, lines 1a-12, Col. C-E lines 11-12, Col. C-D	Deny line 10a, Col. F (this line was not numbered, 10a was designated by staff for the figure representing total gain/loss)
Page 2, lines 1a-11, Col. C-F lines 12-13, Col. C-D	Deny line 11, Col. F
Page 3, lines 2-11, Col. C-F line 12, Col. C-D	Deny line 11, Col. E-F
Page 4, lines 2-11, Col. C-F	Deny line 11, Col. F
Page 5, lines 2-11, Col. C-F	Deny line 11, Col. F
Page 6, lines 2-11, Col. C-F	Grant
Page 7, lines 2-11, Col. C-F	Deny line 11, Col. F
Page 8, lines 2-11, Col. C-F	Deny line 11, Col. F
Page 9, lines 2-11, Col. C-F	Grant
Page 10, lines 2-11, Col. C-F	Deny line 11, Col. F
Page 11, lines 2-11, Col. C-F	Deny line 11, Col. F
Page 12, lines 2-11, Col. C-F	Grant
Page 13, lines 2-11, Col. C-F	Deny line 11, Col. F
Page 14, lines 2-11, Col. C-F	Deny line 11, Col. F
Page 15, lines 2-11, Col. C-F	Grant
Page 16, lines 2-11, Col. C-F	Deny line 11, Col. F
Page 17, lines 2-11, Col. C-F	Deny line 11, Col. F
Page 18, lines 2-11, Col. C-F	Grant
Page 19, lines 2-11, Col. C-F	Deny line 11, Col. F
Page 20, lines 2-11, Col. C-F	Deny line 11, Col. F
Page 21, lines 2-11, Col. C-F	Deny line 10a, Col. E (this line was not numbered, 10a was designated by staff for the figure representing total savings)
Page 22, lines 2-11, Col. C-F	Deny line 11, Col. F
Page 23, lines 2-11, Col. C-F	Deny line 11, Col. F

Page 24, lines 2-11, Col. C-F	Deny line 11, Col. E
Page 25, lines 2-11, Col. C-F	Deny line 11, Col. F
Page 26, lines 2-11, Col. C-F	Deny line 11, Col. F
Page 27, lines 2-11, Col. C-F	Deny line 11, Col. E
Page 28, lines 2-11, Col. C-F	Deny line 11, Col. F
Page 29, lines 2-11, Col. C-F	Deny line 11, Col. F
Page 30, lines 2-11, Col. C-F	Deny line 11, Col. E
Page 31, lines 2-11, Col. C-F	Deny line 11, Col. F
Page 32, lines 2-11, Col. C-F	Deny line 11, Col. F
Page 33, lines 2-11, Col. C-F	Deny line 11, Col. E
Page 34, lines 2-11, Col. C-F	Deny line 11, Col. F
Page 35, lines 2-11, Col. C-F	Deny line 11, Col. F
Page 36, lines 2-11, Col. C-F	Deny line 11, Col. E
Page 37, lines 2-11, Col. C-F	Deny line 11, Col. F
Page 38, lines 2-13, Col. C-F	Deny line 11, Col. F
Page 39, lines 2-11, Col. C-F	Deny line 11, Col. E-F

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 FPL 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 Rudolph "Rudy" Bradley, as Prehearing Officer, that FPL's Request for Confidential Classification of Document No. 04667-04 is granted in part and denied in part, as set forth in the body of this order. It is further

ORDERED that the information in Document No. 04667-04 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.

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By ORDER of Commissioner Rudolph "Rudy" Bradley, as Prehearing Officer, this
18th day of October, 2004.



RUDOLPH "RUDY" BRADLEY
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.