

BEFORE THE PUBLIC SERVICE COMMISSION

In re: Environmental cost recovery clause.

DOCKET NO. 050007-EI  
 ORDER NO. PSC-05-0588-CFO-EI  
 ISSUED: May 27, 2005

ORDER GRANTING FIRST REQUEST FOR EXTENSION OF CONFIDENTIALITY FOR  
 DOCUMENT 06114-03 (X-REF 06789-03)

BY THE COMMISSION:

Florida Power & Light (FPL) seeks to extend confidential treatment of information obtained by the Commission during an audit of FPL. The information was obtained during the Environmental Cost Recovery Clause Supplemental Audit for the Year Ended December 31, 2002. The information was granted confidentiality in Order No. PSC-03-1142-CFO-EI, issued on October 13, 2003, in Docket 030007-EI, Environmental Cost Recovery Clause.

The information consists of contracts and contractual data such as pricing terms and purchase orders. FPL states that the material is still sensitive, is kept confidential by FPL, and if disclosed would impair the efforts of FPL to contract for goods and services on favorable terms. FPL further states that if the information is disclosed it could disadvantage FPL's contractors and vendors by giving their competitors an unfair advantage in competing for both FPL and non-FPL contracts. The table below identifies the page and line numbers of the information for which FPL seeks an extension of confidentiality and the reason.

Staff Work Paper Number	Description	Page(s)	Line(s)	Recommend Granting an 18 Month Extension	Type of Information Classified Confidential
Documents					
45-1/1	Test of Cash Vouchers	1-2,4			competitive information
45-1/1	Test of Cash Vouchers	5	1-2,4	Grant	Sensitive contractual and competitive information
45-1/1	Test of Cash Vouchers	6-7	1	Grant	Sensitive contractual and competitive information
45-1/1	Test of Cash Vouchers	10	1,10,14,20-22, 27,29,31	Grant	Sensitive contractual and competitive information
45-1/1	Test of Cash Vouchers	11	1,8,15-16	Grant	Sensitive contractual and competitive information
45-1/1	Test of Cash Vouchers	13	1	Grant	Sensitive contractual and competitive information
45-1/1	Test of Cash Vouchers	17	1-6,11-12	Grant	Sensitive contractual and competitive information
45-1/1	Test of Cash Vouchers	18	1,3-5	Grant	Sensitive contractual and competitive information

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Staff Work Paper Number	Description	Page(s)	Line(s)	Recommend Granting an 18 Month Extension	Type of Information Classified Confidential
45-1/1	Test of Cash Vouchers	19	27	Grant	Sensitive contractual and competitive information
45-1/1	Test of Cash Vouchers	20	1,18	Grant	Sensitive contractual and competitive information
45-1/1	Test of Cash Vouchers	21	1	Grant	Sensitive contractual and competitive information
45-1/1	Test of Cash Vouchers	22	1,4	Grant	Sensitive contractual and competitive information
45-1/1-1	Invoice	2	Col C-E, 2-3; Col D-E, 4,12; Col E, 14	Grant	Sensitive contractual and competitive information
45-1/1-1	Invoice	3	Col C-E, 2-3; Col D-E, 4; Col E, 12	Grant	Sensitive contractual and competitive information
45-1/1-2	Purchase Order	2	Col A-B,1; Col B, 7	Grant	Sensitive contractual and competitive information
45-2/1	Test of Journal Entries	1	Col A, 3,13	Grant	Sensitive contractual and competitive information
45-2/1	Test of Journal Entries	2	Col A-C, 3-10	Grant	Sensitive contractual and competitive information
45-2/1	Test of Journal Entries	3	Col A, 1-8	Grant	Sensitive contractual and competitive information
45-2/1	Test of Journal Entries	4	11,22,25,29	Grant	Sensitive contractual and competitive information

Florida law presumes that documents submitted to governmental agencies are public records. This presumption is based on the concept that government should operate in the “sunshine.” Rule 25-22.006(4)(c), Florida Administrative Code, provides that it is the Company’s burden to demonstrate that the documents fall into a statutory exemption or that the information is proprietary confidential business information, the disclosure of which will cause the Company or its ratepayers harm.

Section 366.093, Florida Statutes, defines “proprietary confidential business information” as:

[I]nformation, regardless of form or characteristics, which is owned or controlled by the person or company, is intended to be and is treated by the person or company as private in that the disclosure of the information would cause harm to the ratepayers or the person’s or company’s business operations, and has not been disclosed unless disclosed pursuant to a statutory provision, an order of a court or

administrative body, or private agreement that provides that the information will not be released to the public. Proprietary confidential business information includes, but is not limited to:

...

(d) Information 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 and services on favorable terms.

....

Upon review, I find that the information remains sensitive because if made public, it would affect the ability of FPL to contract for goods and services on favorable terms. It therefore satisfies the criteria of Section 366.093(3)(d), Florida Statutes, remains confidential, and shall be granted continued confidential treatment. Pursuant to Section 366.093(4), Florida Statutes, continued confidential protection may only be granted for 18 months unless the entity requesting confidential classification shows good cause why the period should be extended. FPL did not request confidential status for more than an additional 18 months, so the document will be granted confidential status for 18 months from the issuance date of this Order.

Based on the foregoing, it is


ORDERED by Commissioner Rudolph "Rudy" Bradley, as Prehearing Officer, that the request of Florida Power & Light to extend confidentiality is granted. It is further

ORDERED that pursuant to Section 366.093(4), Florida Statutes, and Rule 25-22.006, Florida Administrative Code, confidentiality granted to the material specified herein shall expire 18 months from the date of the issuance of this Order. 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.

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By ORDER of Commissioner Rudolph "Rudy" Bradley, as Prehearing Officer, this 27th day of  
May, 2005

  
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RUDOLPH "RUDY" BRADLEY  
Commissioner and Prehearing Officer

( S E A L )

MKS

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.