

BEFORE THE PUBLIC SERVICE COMMISSION

In re: FPL request for confidential classification of certain workpapers associated with preliminary review of Vegetation Management, Lightning Protection, and Pole Inspection for June 2005, by Florida Power & Light Company.

DOCKET NO. 050557-EI  
ORDER NO. PSC-05-1163-CFO-EI  
ISSUED: November 22, 2005

ORDER GRANTING REQUEST FOR CONFIDENTIAL CLASSIFICATION  
(DOCUMENT NO. 08040-05)

BY THE COMMISSION:

On August 18, 2005, Florida Power & Light Company (FPL) filed a request for confidential classification of specified portions of workpapers provided to Commission staff in connection with the staff's Preliminary Review of Vegetation Management, Lightning Protection, and Pole Inspection for Florida Power & Light Company, June 2005 (Document No. 08040-05).

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 which is owned or controlled by the company, 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 its 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, information concerning bids or other contractual information, the disclosure of which would impair the efforts of the public utility or its affiliates to contract for goods or services on favorable terms (Section 366.093(3)(d)), and information relating to competitive interests, the disclosure of which would impair the competitive business of the information's provider (Section 366.093(3)(e)).

Specifically, FPL seeks confidential classification for the information shown in Workpaper No. 1, lines 17-25 and 41-46. In its request, FPL asserts that this information is proprietary confidential business information as defined in Section 366.093(3), Florida Statutes. Pursuant to Rule 25-22.006, FPL provided a line-by-line justification to support its request, with references to the specific statutory basis or bases for its claim of confidentiality. Further, FPL filed an affidavit of Jim Rutig, as Manager, Vegetation Management, Distribution Business Unit, in support of its request. FPL states that this information is intended to be and is treated by FPL as private and that its confidentiality has been maintained.

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FPL asserts that the information for which it seeks confidential classification concerns bids or other contractual data, including contractual vendor data such as pricing and other terms, the disclosure of which would impair FPL's efforts to contract for goods and services on favorable terms in the future to the detriment of FPL and its customers. FPL maintains that this information is protected by Section 366.093(3)(d), Florida Statutes. In addition, FPL asserts that certain of this information is competitively sensitive insofar as FPL's contractors and vendors are concerned, because disclosure of such information could afford their competitors an unfair advantage competing for both FPL and non-FPL contracts. FPL maintains that this information is protected by Section 366.093(3)(e), Florida Statutes.

Upon review, I find that the information for which FPL seeks confidential classification is proprietary confidential business information, as defined in Section 366.093(3), Florida Statutes, for the reasons identified by FPL. 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.

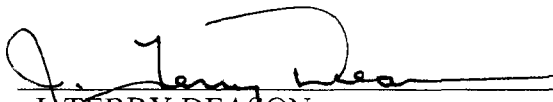
Based on the foregoing, it is

ORDERED by Commissioner J. Terry Deason, as Prehearing Officer, that Florida Power & Light Company's request for confidential classification of specified portions of Document No. 08040-05 is granted. It is further

ORDERED that the information in Document No. 08040-05 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 J. Terry Deason, as Prehearing Officer, this 22nd day of November, 2005.

  
J. TERRY DEASON  
Commissioner and Prehearing Officer

(SEAL)

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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.