

BEFORE THE PUBLIC SERVICE COMMISSION

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

DOCKET NO. 060001-EI
ORDER NO. PSC-06-0986-CFO-EI
ISSUED: November 28, 2006

ORDER GRANTING FLORIDA POWER & LIGHT'S
REQUEST FOR CONFIDENTIAL CLASSIFICATION
(DOCUMENT NO. 08767-06)

On September 22, 2006, pursuant to Section 366.093, Florida Statutes, and Rule 25-22.006, Florida Administrative Code, Florida Power & Light ("FPL") filed a request for confidential classification of portions of information provided in Schedule E12, which is page 7 of Exhibit KMD-6 of the prefiled direct testimony of FPL witness Korel M. Dubin, dated March 1, 2006 and Exhibits GJY-3, GJY-4, GJY-5, AND GJY-6 of the prefiled direct testimony of FPL witness Gerard Yupp, dated April 3, 2006 (Document No. 08767-06).

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 "[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 KMD-6, Schedule E12, of the prefiled direct testimony of Korel M. Dubin and Exhibits GJY-3, GJY-4, GJY-5, AND GJY-6 of the prefiled direct testimony of FPL witness Gerard 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 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

FPL requests that the following information be granted confidential classification:

Exhibit / Page No.	Description	Line No. Col. No.	Florida Statute 366.093(3) Subsection	Affiant
Schedule E-12 Page 7	Capacity Contract Information	Lines 28-33	(d) (e)	Yupp
GJY-3 Page 11 of 57	Exhibit A – Affidavit of Gerard Yupp	7-9, 13, 15, 28, 46-48	(d) (e)	Yupp
GJY-3 Page 36 of 57	Attachment 2 – Firm Storage Precedent Agreement	14, 17	(d) (e)	Yupp
GJY-3 Page 37 of 57	Attachment 2 – Firm Storage Precedent Agreement	6, 8, 13, 17	(d) (e)	Yupp
GJY-3 Page 44 of 57	Attachment 2 – Firm Storage Precedent Agreement	13-23	(d) (e)	Yupp
GJY-3 Page 45 of 57	Attachment 2 – Firm Storage Precedent Agreement	1-8	(d) (e)	Yupp
GJY-3 Page 52 of 57	Attachment 2 – Firm Storage Precedent Agreement	21, 28, 29	(d) (e)	Yupp
GJY-3 Page 55 of 57	Attachment 3 – Storage Facilities	Row 6 & 8, Cols E & F	(d) (e)	Yupp
GJY-4 Page 1 of 1	Total Annual Costs – SESH Pipeline Project (should be Estimated Annual MoBay Costs)	Rows 1-15, Columns A-G	(d) (e)	Yupp
GJY-5 Page 1 of 11	Total Annual Costs – SESH Pipeline Project	Rows 2-13 and 15, Columns C-E	(d) (e)	Yupp
GJY-6 Page 3 of 60	SESH Precedent Agreement	Lines 9 - 22	(d) (e)	Yupp

Exhibit / Page No.	Description	Line No. Col. No.	Florida Statute 366.093(3) Subsection	Affiant
GJY-6 Page 4 of 60	SESH Precedent Agreement	Lines 3, 5, 8-13, 18-20	(d) (e)	Yupp
GJY-6 Page 5 of 60	SESH Precedent Agreement	Lines 3, 5-7, 9-12, 16-20	(d) (e)	Yupp
GJY-6 Page 8 of 60	SESH Precedent Agreement	Lines 12-13	(d) (e)	Yupp
GJY-6 Page 9 of 60	SESH Precedent Agreement	Lines 1 and 9	(d) (e)	Yupp
GJY-6 Page 10 of 60	SESH Precedent Agreement	Lines 4-21	(d) (e)	Yupp
GJY-6 Page 11 of 60	SESH Precedent Agreement	Lines 3, 19-21	(d) (e)	Yupp
GJY-6 Page 12 of 60	SESH Precedent Agreement	Lines 1-22	(d) (e)	Yupp
GJY-6 Page 13 of 60	SESH Precedent Agreement	Lines 1-22	(d) (e)	Yupp
GJY-6 Page 14 of 60	SESH Precedent Agreement	Lines 1-21	(d) (e)	Yupp
GJY-6 Page 15 of 60	SESH Precedent Agreement	Lines 1-21	(d) (e)	Yupp

Exhibit / Page No.	Description	Line No. Col. No.	Florida Statute 366.093(3) Subsection	Affiant
GJY-6 Page 16 of 60	SESH Precedent Agreement	Lines 1-6	(d) (e)	Yupp
GJY-6 Page 17 of 60	SESH Precedent Agreement	Lines 3-22	(d) (e)	Yupp
GJY-6 Page 18 of 60	SESH Precedent Agreement	Lines 1-4, 8, 11-22	(d) (e)	Yupp
GJY-6 Page 19 of 60	SESH Precedent Agreement	Lines 1-12, 15-16	(d) (e)	Yupp
GJY-6 Page 20 of 60	SESH Precedent Agreement	Lines 15-21	(d) (e)	Yupp
GJY-6 Page 21 of 60	SESH Precedent Agreement	Lines 1-10	(d) (e)	Yupp
GJY-6 Page 22 of 60	SESH Precedent Agreement	Lines 11-20	(d) (e)	Yupp
GJY-6 Page 23 of 60	SESH Precedent Agreement	Lines 1-8	(d) (e)	Yupp
GJY-6 Page 25 of 60	SESH Precedent Agreement	Lines 1-22	(d) (e)	Yupp
GJY-6 Page 26 of 60	SESH Precedent Agreement	Lines 1-21	(d) (e)	Yupp

Exhibit / Page No.	Description	Line No. Col. No.	Florida Statute 366.093(3) Subsection	Affiant
GJY-6 Page 27 of 60	SESH Precedent Agreement	Lines 1-4	(d) (e)	Yupp
GJY-6 Page 28 of 60	Exhibit A to SESH Precedent Agreement	Lines 1-30	(d) (e)	Yupp
GJY-6 Page 29 of 60	Exhibit B to SESH Precedent Agreement	Lines 1-59	(d) (e)	Yupp
GJY-6 Page 30 of 60	Exhibit B to SESH Precedent Agreement	Lines 1-56	(d) (e)	Yupp
GJY-6 Page 31 of 60	Exhibit B to SESH Precedent Agreement	Lines 1-29	(d) (e)	Yupp
GJY-6 Page 32 of 60	Proceeds	Lines 1-20	(d) (e)	Yupp
GJY-6 Page 33 of 60	Proceeds	Lines 1-20	(d) (e)	Yupp
GJY-6 Page 34 of 60	Proceeds	Lines 1-6	(d) (e)	Yupp
GJY-6 Page 35 of 60	August 2, 2006 Letter	Lines 7-8, 10-34	(d) (e)	Yupp
GJY-6 Page 36 of 60	August 2, 2006 Letter	Lines 1-38	(d) (e)	Yupp

Exhibit / Page No.	Description	Line No. Col. No.	Florida Statute 366.093(3) Subsection	Affiant
GJY-6 Page 37 of 60	August 2, 2006 Letter	Lines 1-39	(d) (e)	Yupp
GJY-6 Page 38 of 60	August 2, 2006 Letter	Lines 1-42	(d) (e)	Yupp
GJY-6 Page 39 of 60	August 2, 2006 Letter	Lines 1-41	(d) (e)	Yupp
GJY-6 Page 40 of 60	August 2, 2006 Letter	Lines 1-14	(d) (e)	Yupp
GJY-6 Page 42 of 60	August 2, 2006 Letter	Lines 7-8, 10-32	(d) (e)	Yupp
GJY-6 Page 43 of 60	August 2, 2006 Letter	Lines 1-36	(d) (e)	Yupp
GJY-6 Page 44 of 60	August 2, 2006 Letter	Lines 1-39	(d) (e)	Yupp
GJY-6 Page 45 of 60	August 2, 2006 Letter	Lines 1-39	(d) (e)	Yupp
GJY-6 Page 46 of 60	August 2, 2006 Letter	Lines 1-41	(d) (e)	Yupp
GJY-6 Page 47 of 60	August 2, 2006 Letter	Lines 1-24	(d) (e)	Yupp

Exhibit / Page No.	Description	Line No. Col. No.	Florida Statute 366.093(3) Subsection	Affiant
GJY-6 Page 49 of 60	Service Agreement	Lines 22-43	(d) (e)	Yupp
GJY-6 Page 50 of 60	Service Agreement	Lines 1-8	(d) (e)	Yupp
GJY-6 Page 51 of 60	Service Agreement	Lines 1-19	(d) (e)	Yupp
GJY-6 Page 52 of 60	Exhibit A to Service Agreement	Lines 12-16	(d) (e)	Yupp
GJY-6 Page 53 of 60	Exhibit B to Service Agreement	Lines 10-11	(d) (e)	Yupp
GJY-6 Page 54 of 60	Exhibit C to Service Agreement	Line 7	(d) (e)	Yupp
GJY-6 Page 55 of 60	Service Agreement	Lines 22-45	(d) (e)	Yupp
GJY-6 Page 56 of 60	Service Agreement	Lines 1-2, 39-43	(d) (e)	Yupp
GJY-6 Page 57 of 60	Service Agreement	Lines 1-12	(d) (e)	Yupp
GJY-6 Page 58 of 60	Exhibit A to Service Agreement	Lines 12-16	(d) (e)	Yupp

Exhibit / Page No.	Description	Line No. Col. No.	Florida Statute 366.093(3) Subsection	Affiant
GJY-6 Page 59 of 60	Exhibit B to Service Agreement	Lines 10-11	(d) (e)	Yupp
GJY-6 Page 60 of 60	Exhibit C to Service Agreement	Line 7	(d) (e)	Yupp

FPL contends that portions of this information contain contractual data regarding pricing information, non-price terms, and its contract Conditions Precedent. FPL asserts that these contractual matters are related to the competitive interests of FPL, Falcon Gas Storage, Inc. (“MoBay”), and Southeast Supply Header, LLC (“SESH”), the disclosure of which would impair the efforts of FPL or its affiliates to negotiate contracts for goods or services on favorable terms. FPL asserts that the contractual terms are not standard for all potential customers and contracts; therefore, FPL is able to negotiate favorable terms on behalf of its customers. FPL further asserts the disclosure of this information would be detrimental to FPL, its counterparties, and other potential customers, in current and future business negotiations. FPL states that this information is intended to be and is treated by FPL as private and has not been publicly disclosed.

Upon review, it appears that the above-referenced information contained in portions of Exhibit KMD-6, Schedule E12, of the prefiled direct testimony of Korel M. Dubin and Exhibits GJY-3, GJY-4, GJY-5, AND GJY-6 of the prefiled direct testimony of FPL witness Gerard Yupp, satisfies the criteria set forth in Section 366.093(3), Florida Statutes, for classification as proprietary confidential business information and, thus, shall be treated as confidential. The information constitutes “[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,” or “[i]nformation relating to competitive interests, the disclosure of which would impair the competitive business of the provider of the information.” Thus, this information is granted confidential classification.

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

ORDER NO. PSC-06-0986-CF0-EI

DOCKET NO. 060001-EI

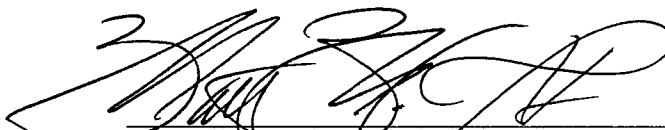
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ORDERED by Commissioner Matthew M. Carter II, as Prehearing Officer, that Florida Power & Light's Request for Confidential Classification of Document No. 08767-06 is granted. It is further

ORDERED that the information in Document No. 08767-06 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 Matthew M. Carter II, as Prehearing Officer, this 28th day of November, 2006.



MATTHEW M. CARTER II
Commissioner and Prehearing Officer

(SEAL)

LCB/pz

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.