

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-06-0987-CFO-EI
ISSUED: November 28, 2006

ORDER GRANTING FLORIDA POWER & LIGHT COMPANY'S
REQUEST FOR CONFIDENTIAL CLASSIFICATION
(DOCUMENT NO. 08467-06)

On August 18, 2006, Florida Power & Light Company ("FPL") was served with Staff's First Data Request (Nos. 1-33) that requested additional information regarding its petition to recover the costs of its proposed MoBay ("MoBay") gas storage project through the fuel cost recovery clause. Accordingly, FPL filed a notice of intent to seek confidential classification of that information on August 25, 2006, and made the information available to Staff. On September 15, 2006, pursuant to Section 366.093, Florida Statutes, and Rule 25-22.006, Florida Administrative Code, FPL filed a request for confidential classification for certain information provided in response to Data Request Numbers 1 and 8 ("DR 1 and 8") (Document No. 08467-06). DR 1 and 8 requested a complete copy of FPL's contract or agreement with MoBay. Additionally, Staff requested a schedule showing FPL's estimated annual cost for participating in the MoBay storage project, as well as supporting documentation that would prove that the cost is reasonable.

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 information contained in responses to DR 1 and 8 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:

Discovery Data Request	Description	Page	Line No./Col No.	Florida Statute 366.903 (3) Subsection	Affiant
1	Contract # 2005-21	Page 3 Page 4 Page 5 Page 6 Page 9 Page 10 Exhibit A	Line 16, 31, 33 Line 3, 5, 35 Line 16 Line 8, 11 Line 3, 4, 6 Line 9, 12, 13, 15, 18, 20 Line 8, 12, 20, 25	(d), (e)	G. Yupp
1	Contract # 2004-07	Page 1 Page 2 Page 5 Exhibit A	Line 31, 33 Line 2 Line 24, 26, 28, 31, 33, 34 Page 9, Line 8, 14	(d), (e)	G. Yupp
8	Data Table	1	ALL	(d), (e)	G. 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 Bay Gas Storage Company, LTD ("Bay Gas"), 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 responses to DR 1 and 8 satisfy 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.

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

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to exceed 18 months, absent good cause shown. Accordingly, the information identified in Document No. (08467-06) shall be granted confidential classification for a period of 18 months from the issuance of this Order.

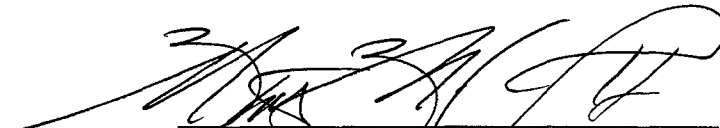
Based on the foregoing, it is

ORDERED by Commissioner Matthew M. Carter II, as Prehearing Officer, that Florida Power & Light Company's Request for Confidential Classification of Document No. 08467-06 is granted. It is further

ORDERED that the information in Document No. 08467-06 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.