

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for approval of 2007 revisions to underground residential and commercial distribution tariff, by Florida Power & Light Company.

DOCKET NO. 070231-EI

In re: Petition for approval of underground conversion tariff revisions, by Florida Power & Light Company.

DOCKET NO. 080244-EI
ORDER NO. PSC-09-0400-CFO-EI
ISSUED: June 3, 2009

ORDER GRANTING FLORIDA POWER & LIGHT COMPANY'S
REQUEST FOR CONFIDENTIAL CLASSIFICATION
(DOCUMENT NO. 04764-09 (X-REF DOCUMENT NO. 05212-09))

On May 26, 2009, in Docket Nos. 070231-EI and 080244-EI, pursuant to Section 366.093, Florida Statutes (F.S.), and Rule 25-22.006, Florida Administrative Code (F.A.C.), Florida Power & Light Company (FPL) filed a request for confidential classification of Thomas Koch's Exhibit TRK-10, entitled "Reduced Accident Litigation and Awards Comparison" (Document No. 04764-09 (x-ref Document No. 05212-09)).

Section 366.093(1), F.S., 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 Section 119.07(1) [the Public Records Act]." Section 366.093(3), F.S., 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)(e), F.S., provides that proprietary confidential business information includes, but is not limited to "[i]nformation relating to competitive interests, the disclosure of which would impair the competitive business of the provider of the information."

Confidential Classification Request

FPL contends that the information contained in Thomas Koch's Exhibit TRK-10, entitled "Reduced Accident Litigation & Awards Comparison," specifically Page 1, Line No. 4 of that document, falls within the meaning of Section 366.093(3)(e), F.S., and thus constitutes proprietary confidential business information entitled to protection under Section 366.093, F.S., and Rule 25-22.006, F.A.C. FPL asserts that this information is intended to be and is treated by FPL as private and has not been publicly disclosed.

FPL argues that the information in Exhibit TRK-10 relates to FPL's historical litigation costs and expenses associated with underground and overhead facilities. FPL considers this

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information to be proprietary confidential business information because its disclosure would provide litigation adversaries, and potential adversaries, with inappropriate insight into the nature of FPL's damages and litigations experience, thus, impairing FPL's competitive business to the disadvantage of FPL and its customers.

Staff contacted the parties to these dockets about whether they objected to FPL's request for confidential classification. The parties indicated that they do not object to FPL's request.

Ruling

Upon review, it appears the above-referenced information satisfies the criteria set forth in Section 366.093(3)(e), F.S., for classification as proprietary confidential business information, because the information in Exhibit TRK-10 constitutes "[i]nformation relating to competitive interests, the disclosure of which would impair the competitive business of the provider of the information." Thus, the information identified in Document No. 04764-09 (x-ref Document No. 05212-09) shall be granted confidential classification.

Pursuant to Section 366.093(4), F.S., 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), F.S., 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 Lisa Polak Edgar, as Prehearing Officer, that Florida Power & Light Company's Request for Confidential Classification of Document No. 04764-09 (x-ref Document No. 05212-09) is granted. It is further

ORDERED that the information in Document No. 04764-09 (x-ref Document No. 05212-09) 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 Lisa Polak Edgar, as Prehearing Officer, this 3rd day of
June, 2009.


LISA POLAK EDGAR
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 Office of Commission Clerk, 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.