

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Commission review of numeric conservation goals (Florida Power & Light Company). | DOCKET NO. 080407-EG
ORDER NO. PSC-10-0121-CFO-EG
ISSUED: February 26, 2010

ORDER GRANTING FLORIDA POWER & LIGHT COMPANY'S
REQUEST FOR CONFIDENTIAL CLASSIFICATION OF
HEARING EXHIBIT NO. 167 (DOCUMENT NO. 08988-09)

On August 31, 2009, 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 information contained in Hearing Exhibit No. 167, specifically those portions relating to the Florida Solar Coalition's First Request for Production of Documents No. 2 and additional bates stamped pages 000014 through 000058 (Document No. 08988-09). This request was filed in Docket No. 080407-EG.

Request for Confidential Classification

Section 366.093(1), F.S., provides that records that the Commission has found to contain proprietary confidential business information shall be kept confidential and shall be exempt from Chapter 119, F.S. 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), F.S., provides that proprietary confidential business information includes:

- (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 or services on favorable terms.
- (e) Information relating to competitive interests, the disclosure of which would impair the competitive business of the provider of the information.

FPL contends that certain information contained within Hearing Exhibit No. 167, specifically all lines of pages 5-50 and lines 1-3 of page 51, falls within these categories 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 states that this information is intended to be and is treated by FPL as private and has not been publicly disclosed.

FPL specifically contends that the information at issue relates to Requests for Proposals for the technical potential study in Docket Nos. 080407-080413-EG, the Economic and Achievable Scope of Work entered into between FPL and other collaborative members and Itron, the memorandum of understanding (MOU) entered into between FPL and the other Florida Energy Efficiency and Conservation Act (FEECA) utilities with regard to the technical potential study and the amended MOU for the economic and achievable potential study, and the Itron

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contract payment amounts. FPL asserts that the information in question consists of information related to bids or other contractual data, the public disclosure of which would impair FPL's ability to contract for goods or services on favorable terms in the future. Therefore, FPL submits that the information is competitively sensitive to FPL's vendor, the disclosure of which would impair the competitive business of the vendor in question.

Ruling

Upon review, it appears the above-referenced information satisfies the criteria set forth in Section 366.093(3), F.S., for classification as proprietary confidential business information. The information constitutes proprietary confidential business information which includes, but is not limited to, 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 or services on favorable terms and information relating to competitive interests, the disclosure of which would impair the competitive business of the provider of the information. Moreover, none of the documentation discussed herein contains any information regarding the compensation of FPL executives. Thus, the information contained in Document No. 08988-09, specifically all lines of pages 5-50 and lines 1-3 of page 51, 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 Nathan A. Skop, as Prehearing Officer, that Florida Power & Light Company's Request for Confidential Classification of Document No. 08988-09 is granted as set forth herein. It is further

ORDERED that the information in Document No. 08988-09, 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 Nathan A. Skop, as Prehearing Officer, this 26th day of February, 2010.



NATHAN A. SKOP

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 25-22.0376, 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.