

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Environmental cost recovery clause.

DOCKET NO. 100007-EI  
ORDER NO. PSC-11-0043-CFO-EI  
ISSUED: January 25, 2011

ORDER GRANTING FLORIDA POWER & LIGHT COMPANY'S  
REQUEST FOR CONFIDENTIAL CLASSIFICATION  
(DOCUMENT NO. 07185-10)

On September 8, 2010, 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 revised request for confidential classification of certain information provided in its Response to Staff's Fourth Set of Interrogatories No. 36 (Response) filed in this docket (Document No. 07185-10). The request corrected a typographical error in an earlier request for confidential classification of this information that FPL filed on August 30, 2010. That request referred to Staff's Third Set of Interrogatories instead of Staff's Fourth Set of Interrogatories. The substance of the request, the exhibits to the request and the justification chart for the request (Exhibit C) are unchanged from the earlier filing.

Request for Confidential Classification

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. Subparagraph (d) of Section 366.093(3), F.S., 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." In addition, subparagraph (e) of Section 366.093(3), F.S., provides that "[i]nformation relating to competitive interests, the disclosure of which would impair the competitive business of the provider of information" is proprietary confidential information.

FPL contends that portions of the information contained in its Response, as more specifically described in Exhibit C to its initial request, falls within these definitions and thus constitutes proprietary confidential business information entitled to protection under Section 366.093, F.S., and Rule 25-22.006, F.A.C. Specifically, FPL alleges that its Response contains contractual and bidding information relating to cost estimates for its 800 MW ESP Project, including contractor labor and material cost estimates, which if disclosed would impair FPL's ability to contract competitively for goods and services. 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

Ruling

Upon review, I find that the above-referenced information contains contractual and bidding information relating to cost estimates for FPL's 800 MW ESP Project which, if disclosed, would cause harm to FPL's ratepayers or business operations. This information satisfies the criteria set forth in Section 366.093(3), F.S., 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" and/or "[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. 07185-10 shall be granted confidential classification.

The information in Document No. 07185-10 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. 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 portions of Document No. 07185-10, as detailed in Exhibit C, is granted. It is further

ORDERED that the information in Document No. 07185-10 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. 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. 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 25th day of January, 2011.

  
LISA POLAK EDGAR  
Commissioner and Prehearing Officer

( S E A L )

MCB

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.

**EXHIBIT C**

**COMPANY:**  
**TITLE:** List of Confidential Exhibits  
**DOCKET NO.:** 100007-EI  
**DOCKET TITLE:** Environmental Cost Recovery Clause  
**SUBJECT:**  
**DATE:**

<b>Description</b>	<b>Interrogatory No.</b>	<b>Conf. Y/N</b>	<b>Line Nos.</b>	<b>Florida Statute 366.093(3) Subsection</b>	<b>Affiant</b>
Attachment 1	36	Yes	Columns B & C, Lines 4-6	(d), (e)	M. Cifone