

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Joint petition for modification to determination of need for expansion of an existing renewable energy electrical power plant in Palm Beach County by Solid Waste Authority of Palm Beach County and Florida Power & Light Company, and for approval of associated regulatory accounting and purchased power agreement cost recovery.

DOCKET NO. 110018-EU
ORDER NO. PSC-11-0193-CFO-EU
ISSUED: April 12, 2011

ORDER GRANTING FLORIDA POWER & LIGHT COMPANY'S
REQUEST FOR CONFIDENTIAL CLASSIFICATION
(DOCUMENT NO. 02362-11 X-REF DOCUMENT NO. 01820-11)

On April 8, 2011, 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 the entirety of the information provided in its Supplemental Response to Staff's Request for Production of Documents Number 8 in this docket (Document No. 02362-11 X-Ref Document No. 01820-11).

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 (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 the information" is proprietary confidential information.

FPL contends that the entirety of the information contained in its Supplemental Response falls within this definition 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 Supplemental Response is a compilation of competitively sensitive information related to fuel price forecasts, and that public disclosure of this information could impair the competitive interests of FPL in its ability

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to achieve the lowest fuel costs for its customers, as well as the competitive interests of the third party providers of the information. FPL states that this information is intended to be and is treated by FPL as private, has not been publicly disclosed, and FPL has maintained the confidentiality of the information.

Ruling

Upon review, I find that the above-referenced information constitutes confidential information relating to competitive interests. 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 relating to competitive interests, the disclosure of which would impair the competitive business of the provider of the information.” Thus, the entirety of the information contained in Document No. 02632-11 (X-Ref Document No. 01820-11), shall be granted confidential classification.

The information in Document No. 02632-11 (X-Ref Document No. 01820-11) 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 Document No. 02632-11 (X-Ref Document No. 01820-11) is granted. It is further

ORDERED that the information in Document No. 02632-11 (X-Ref Document No. 01820-11) 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 12th
day of April, 2011.


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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.