

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Fuel and purchased power cost recovery
clause with generating performance incentive
factor.

DOCKET NO. 110001-EI
ORDER NO. PSC-11-0278-PCO-EI
ISSUED: June 23, 2011

ORDER GRANTING FLORIDA POWER & LIGHT COMPANY'S
FIRST REQUEST FOR EXTENSION OF CONFIDENTIAL CLASSIFICATION
(DOCUMENT NO. 07118-08)

By Order No. 09-0305-CFO-EI (prior Confidentiality Order), issued May 7, 2009, in Docket No. 090001-EI, the Commission granted confidential classification to certain information contained in Florida Power & Light Company (FPL's) Hedging Information Report, along with Exhibits A through D of that report (Document No. 07118-08). The information was granted confidential status for 18 months. On November 8, 2010, FPL filed its First Request for Extension of Confidential Classification of the Hedging Information Report and Exhibits A through D.

FPL states that the information that was the subject of the prior Confidentiality Order warrants continued treatment as proprietary and confidential business information within the meaning of Section 366.093, Florida Statutes (F.S.) 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. Paragraphs (3)(d), and (e) of Section 366.093 F.S., provide that proprietary confidential business information includes, but is not limited "[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 "[i]nformation relating to competitive interests, the disclosure of which would impair the competitive business of the provider of the information."

FPL contends that the information contained in the Hedging Information Report including Exhibits a through D and as more specifically described in the table attached as Exhibit A, 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, Florida Administrative Code (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 contends that nothing has changed since the prior Confidentiality Order to render the information stale or public.

FPL states that the information in the Hedging Information Report contains or constitutes trade secrets of FPL, which allow FPL to hedge its fuel purchases on favorable terms for FPL

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and its customers. FPL contends that the disclosure of this information would provide other market participants with insight into FPL's marketing and trading practices that would allow them to anticipate FPL's marketing and trading decisions. FPL also alleges this would impair FPL's ability to negotiate, to the detriment of FPL and its customers.

FPL also states that the documents or materials contain details related to FPL's annual hedging program for natural gas and fuel oil. According to FPL, the information contains monthly realized values for FPL's hedge positions and the resulting impact on the cost of natural gas and fuel oil. FPL argues that the disclosure of this information would impair the efforts of FPL to contract for goods and services on favorable terms for the benefit of its customers, and would impair the competitive interests of FPL. FPL concludes that the disclosure of certain of the information in the Hedging Information Report would also place FPL at a competitive disadvantage when coupled with other information that is publicly available.

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 "[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." Nothing has changed since the prior Confidentiality Order to render this information stale or public. The information continues to contain proprietary confidential business information. Thus, the information identified in Document No. 07118-08 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 Ronald A. Brisé, as Prehearing Officer, that Florida Power & Light Company's First Request for Extension of Confidential Classification of Document No. 07118-08 is granted. It is further

ORDERED that the information in Document No. 07118-08 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 Ronald A. Brisé, as Prehearing Officer, this 23rd day of June, 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.

Attachment A

DOCUMENT DESCRIPTION	PAGE	LINE
Hedging Information Report (GJY-2)	1 and 2	Lines 4-9, Col C-E; Lines 4-8, Col F; and Line 12 Col C and D
GJY-2	3 through 16	Lines 4-9, Col C-F