

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

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

DOCKET NO. 120001-EI  
ORDER NO. PSC-12-0110-CFO-EI  
ISSUED: March 13, 2012

ORDER GRANTING FLORIDA POWER & LIGHT COMPANY'S REQUEST FOR  
CONFIDENTIAL CLASSIFICATION OF INFORMATION PROVIDED PURSUANT TO  
AUDIT NO. 08-003-4-3

(DOCUMENT NOS. 05626-08 AND 05533-11,

X-REF. DOCUMENT NOS. 05001-08, 05002-08, 05003-08, 05004-08, 05005-08)

On June 27, 2008, 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 (Request) of certain information submitted by FPL pursuant to Audit Control No. 08-003-4-3 (the Audit). On May 6, 2010, FPL renewed its request for confidential classification of materials provided pursuant to the Audit (Renewed Request). The Renewed Request included revised exhibits, including a Revised Exhibit C which is a line by line justification of the materials sought to be treated as confidential. On August 5, 2011, FPL submitted a letter in reference to its June 27, 2008 Request and its May 6, 2010 Renewed Request. In the 2011 letter, FPL clarified its intent regarding the confidential treatment of certain workpapers listed in Revised Exhibit C. Having clarified Revised Exhibit C with the August 5, 2011 letter, this Order addresses the confidentiality of certain information submitted by FPL pursuant to the Audit and retained by the Commission as Document Nos. 05626-08 and 05533-11; x-ref Document Nos. 05001-08, 05002-08, 05003-08, 05004-08, 05005-08).

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)(c),(d), and (e) of Section 366.093 F.S., provide that proprietary confidential business information includes, but is not limited to "[s]ecurity measures, systems, or procedures;" "[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 designated portions of the information contained in its responses to the Audit, as more specifically described in the line-by-line/field-by-field justification attached as Revised Exhibit C to the Renewed Request, and as clarified by its letter dated August 5, 2011, fall within these categories and, thus, constitutes proprietary confidential business information

DOCUMENT NUMBER-DATE

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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 asserts that the documents and materials include negotiated agreements for services of FPL facilities. FPL states that if the information were made public, it would disclose certain security procedures. FPL states that public disclosure of security procedures would be to the detriment of FPL and to its customers and would impair FPL's efforts to enter into contracts on commercially favorable terms.

FPL asserts that some of the documents or material it provided in the Audit contain or constitute customer-specific account information, including banking account numbers. FPL states that its corporate policy is to not disclose customer-specific information. FPL contends that this policy includes, but is not limited to: customer names, addresses, telephone numbers, account numbers, rates, billing determinants, conservation savings, and bills. FPL states that it treats such information as confidential and does not disclose it, except as required by law, to entities or persons other than the customer absent the customer's consent.

FPL states that certain of the documents or materials are proprietary confidential business information and contain competitively sensitive data that, if disclosed, would place FPL at a competitive disadvantage. According to FPL, certain of the proprietary confidential information concerns billing statements for purchased power from several entities. FPL contends that the disclosure of this information would injure those entities in the market place.

FPL claims that certain of the information contains or constitutes contractual data such as pricing and other terms, and vendor and supplier rates, the disclosure of which would impair the efforts of FPL to contract for gas and oil procurement on favorable terms for the benefit of its customers. FPL asserts this would impair the competitive interests of FPL and its vendors.

### **Time Period For Confidential Classification**

According to Section 366.093(4), F.S., confidential classification may only extend for 18 months from the issuance of an Order granting confidential classification unless "the Commission finds, for good cause, that the protection from disclosure shall be for a specified longer period." FPL has not requested a period longer than the 18 months.

### **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 "[s]ecurity measures, systems, or procedures;" "[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." Thus, the information identified in Document Nos. 05626-

08 and 05533-11; x-ref Document Nos. 05001-08, 05002-08, 05003-08, 05004-08, 05005-08 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 Eduardo E. Balbis, as Prehearing Officer, that Florida Power & Light Company's Request for Confidential Classification of Document Nos. 05626-08 and 05533-11; x-ref Document Nos. 05001-08, 05002-08, 05003-08, 05004-08, 05005-08 is granted. It is further

ORDERED that the information in Document Nos. 05626-08 and 05533-11; x-ref Document Nos. 05001-08, 05002-08, 05003-08, 05004-08, 05005-08 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 will be the only notification by the Commission to the parties concerning the expiration of the confidentiality time period.

By ORDER of Commissioner Eduardo E. Balbis, as Prehearing Officer, this 13th day  
of March, 2012.



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Copies furnished: A copy of this document is provided to the parties of record at the time of issuance and, if applicable, interested persons.

LCB

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.