

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

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

DOCKET NO. 160001-EI
ORDER NO. PSC-16-0304-CFO-EI
ISSUED: July 28, 2016

ORDER GRANTING FLORIDA POWER & LIGHT COMPANY'S FIFTH REQUEST FOR
EXTENSION OF CONFIDENTIAL CLASSIFICATION OF INFORMATION PROVIDED
PURSUANT TO AUDIT NO. 05-028-4-1 (DOCUMENT NO. 06343-15)

On October 8, 2015, 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 its fifth request for extension of confidential classification (Request) of information provided pursuant to Audit No. 05-028-4-1 (Document No. 06343-15). This Request was filed in Docket No. 150001-EI.

Request for Confidential Classification

FPL's original request for confidential treatment of information provided pursuant to Audit No. 05-028-4-1 was granted by Order No. PSC-05-0805-CFO-EI, issued August 5, 2005, and included Exhibits A, B, C, and D. FPL filed a first request for extension of confidential treatment and included First Revised Exhibit C and First Revised Exhibit D in its request. The first request was granted by Order No. PSC-07-0946-CFO-EI issued on November 28, 2007. FPL filed a second request for extension of confidential treatment including Second Revised Exhibit C and Second Revised Exhibit D. The second request was granted by Order No. PSC-10-0286-CFO-EI issued on May 7, 2010. FPL filed a third request for extension of confidential treatment which included First Revised Exhibit A, First Revised Exhibit B, Third Revised Exhibit C, and Third Revised Exhibit D. FPL's third request was granted by Order No. PSC-12-0162-CFO-EI issued March 29, 2012. FPL filed a fourth request for extension of confidential treatment which included Second Revised Exhibit A, Second Revised Exhibit B, Fourth Revised Exhibit C, and Fourth Revised Exhibit D. FPL's fourth request was granted by Order No. PSC-14-0157-CFO-EI issued on April 8, 2014.

FPL asserts that some of the information that was the subject of Order No. PSC-14-0157-CFO-EI warrants continued treatment as proprietary and confidential business information. Accordingly, FPL has included Third Revised Exhibits A and B as well as Fifth Revised Exhibit C (as corrected in Document No. 07553-15) to reduce the number of pages for which confidential treatment is sought. Fifth Revised Exhibit C, as corrected, contains a table that identifies the specific pages, lines or columns that remain confidential and references the specific statutory bases for confidentiality and the affiants who support the requested classification. FPL also included Fifth Revised Exhibit D, which contains the affidavits of Antonio Maceo, Damaris Rodriguez, and Gerard J. Yupp in support of its Request. FPL contends that the information addressed in these exhibits continues to be proprietary confidential business information within the meaning of Section 366.093(3), F.S.

FPL contends that the designated portions of the information contained in its responses to Audit No. 05-028-4-1 constitutes proprietary confidential business information entitled to continued protection under Section 366.093, F.S., and Rule 25-22.006, F.A.C. FPL avows that this information is intended to be and continues to be treated by FPL as private and has not been publicly disclosed.

FPL asserts that some of the information relates to confidential business information, contains or constitutes internal auditing controls, reports of internal auditors, or information relating to internal auditing reports issued in 2004. FPL contends that this information is protected from public disclosure pursuant to Section 366.093(3)(b), F.S.

FPL further asserts that certain documents contain contractual data such as pricing and other terms, payment records, and vendor and supplier rates for oil and gas procurement. FPL contends that the disclosure of this information would impair the efforts of FPL to contract for gas and oil on favorable terms for the benefit of its customers and would impair the competitive interests of FPL and its vendors. FPL also asserts that certain information in these documents and materials would place FPL at a disadvantage when coupled with other information that is publicly available. FPL argues that such information is protected by Section 366.093(3)(d), F.S.

Additionally, FPL asserts that certain information provided by FPL contains information related to customer specific account information. FPL contends that it is its policy not to disclose customer-specific information, except as required by law, to entities or persons other than the customer, absent the customer's consent. FPL argues that its policy is premised upon customers' right to privacy and the potential that disclosure of customer specific information may harm some customers' competitive interests. FPL asserts that such information is protected from public disclosure by Section 366.093(3)(e).

FPL's Fifth Request for Extension incorporates by reference and adopts the arguments propounded in its original, first, second, third, and fourth requests for extension. FPL asserts that the period of confidential treatment of the above-numbered document is due to expire soon. FPL contends that the information deemed confidential warrants continued treatment as proprietary and confidential business information within the meaning of Section 366.093(3), F.S. FPL further asserts that the confidential information is intended to be and has been treated by FPL as private and its confidential nature has been maintained. FPL also asserts that the disclosure of the information would cause harm to FPL and its customers. Finally, FPL contends that nothing has changed since the filing of the original requests to render the information stale or public, such that continued confidential treatment would not be appropriate.

Ruling

Section 366.093(1), F.S., provides that records that the Florida Public Service Commission (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 that has not been voluntarily disclosed to the public. Section 366.093(3), F.S., provides in pertinent part that proprietary confidential business information includes, but is not limited to:

- (b) Internal auditing controls and reports of internal auditors.
- (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.

Upon review, it appears the above-referenced information satisfies the criteria set forth in Section 366.093(3), F.S., for continued classification as proprietary confidential business information. The information described above appears to be "internal auditing controls and reports of internal auditors;" "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;" or "information 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. 06343-15 shall be granted a continuation of 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 
Commissioner

ORDERED by ~~Chairman~~ Art Graham, as Prehearing Officer, that Florida Power & Light Company's Request for Confidential Classification of Document No. 06343-15 is granted. It is further

ORDERED that the information in Document No. 06343-15, 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 Art Graham, as Prehearing Officer, this 28th day of July, 2016.



ART GRAHAM

Commissioner and Prehearing Officer
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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.

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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.