

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Florida Power & Light Company's request for confidential classification of document request responses and portions of audit staff's draft report entitled Coal Combustion Residual Storage and Disposal Processes of the Florida Electric Industry.

DOCKET NO. 110322-EI
ORDER NO. PSC-16-0549-CFO-EI
ISSUED: December 8, 2016

ORDER GRANTING FLORIDA POWER & LIGHT COMPANY'S REVISED
THIRD REQUEST FOR EXTENSION OF CONFIDENTIAL CLASSIFICATION OF
DOCUMENT NO. 08594-16 (CROSS REF. 08740-11 and 00055-12)

On November 1, 2016, 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 or company) filed its Revised Third Request for Extension of Confidential Classification (Request) of certain information included in the "Review of Coal Combustion Residual Storage and Disposal Processes of the Florida Electric Industry" (Report) prepared by the Commission's Office of Auditing and Performance Analysis, and for information included in FPL's data responses that the Commission staff reviewed in preparing the Report (Data Responses). On November 10, 2016, FPL amended its Request to exclude certain information contained in the Report which FPL determined is no longer confidential. The materials subject to this Request are contained in Document No. 08594-16 (cross ref. 08740-11 and 00055-12).

FPL originally requested confidential classification of the materials subject to this Request on December 2, 2011. The Commission granted that request by Order No. PSC-12-0037-CFO-EI, issued January 24, 2012, upon finding that the materials satisfied the criteria set forth in section 366.093(3), F.S., for classification as proprietary confidential business information. The Commission ordered that the materials be protected from disclosure for a period of 18 months. FPL subsequently filed its first and second requests for extension of confidential classification of these materials on August 13, 2013 and on February 11, 2015, respectively. The Commission granted those requests by Order Nos. PSC-13-0388-CFO-EI and PSC-15-0111-CFO-EI, issued August 20, 2013 and February 25, 2015, respectively, and ordered that the materials be protected from disclosure for additional 18-month periods.

FPL states that some changes have occurred since the issuance of Order No. PSC-15-0111-CFO-EI to render a portion of the information public. Thus, FPL has modified its Request to remove the confidential protections from the now public information. FPL states that no significant changes have occurred to render the remaining information that is the subject of this Request stale or public. FPL requests that the remaining information contained in Document No. 08594-16 (cross ref. 08740-11 and 00055-12) be classified as confidential for at least an additional 18-month period, as provided in section 366.093(4), F.S., and that the information be returned as soon as it is no longer necessary for the Commission to conduct its business.

FPL submitted four exhibits along with its Request, entitled Third Revised Exhibits A, B, C, and D. Third Revised Exhibits A, B, and C have been modified to remove the confidential protections from the now public information. Third Revised Exhibit A contains a sealed, unredacted copy of all the pages of the Report and Data Responses for which continued confidential treatment is sought. In Third Revised Exhibit A, the information asserted to be confidential is highlighted. Third Revised Exhibit B contains a redacted version of the information for which continued confidential treatment is sought. In Third Revised Exhibit B, the information asserted to be confidential is blocked out by opaque marker or other means. Third Revised Exhibit C contains FPL's justifications for the confidential treatment of the above-described information, and is attached to this Order as Attachment A. Third Revised Exhibit D consists of the declaration of an FPL Production Manager signed and dated October 28, 2016, in support of this Request.

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 [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. Section 366.093(3)(c), (d), and (e), F.S., provides 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 affiliate 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 remaining information falls within these categories and thus constitutes proprietary confidential business information entitled to continued 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.

Upon review, it appears that the above-referenced information satisfies the criteria set forth in section 366.093(3), F.S., for classification as proprietary confidential business information and shall be treated as confidential. 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 affiliate 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, this information is granted continued 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 Lisa Polak Edgar, as Prehearing Officer, that Florida Power & Light Company's Revised Third Request for Extension of Confidential Classification of Document No. 08594-16 (cross ref. 08740-11 and 00055-12) is granted. It is further

ORDERED that Attachment A to this Order is incorporated herein by reference. It is further

ORDERED that the information in Document No. 08594-16 (cross ref. 08740-11 and 00055-12) 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. It is further

ORDERED that this docket shall be closed.

By ORDER of Commissioner Lisa Polak Edgar, as Prehearing Officer, this 8th day of December, 2016.


LISA POLAK EDGAR
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.

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.

Any party adversely affected by the Commission's final action in this matter may request:

- 1) reconsideration of the decision by filing a motion for reconsideration with the Office of Commission Clerk, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, within fifteen (15) days of the issuance of this order in the form prescribed by Rule 25-22.060, 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 and/or wastewater utility by filing a notice of appeal with the Office of Commission Clerk, and filing a copy of the notice of appeal and the filing fee with the appropriate court. This filing must be completed within thirty (30) days after the issuance of this order, pursuant to Rule 9.110, Florida Rules of Appellate Procedure. The notice of appeal must be in the form specified in Rule 9.900(a), Florida Rules of Appellate Procedure.

Exhibit C
Florida Power and Light Company
Review of Coal Combustion Residual Storage and Disposal Process
Of the Florida Electric Industry

Document	No. of Pages	Conf. Y/N	Line No./Col. No.	Florida Statute 388.093 (3) Subsection	Affiant
Document Request No. 1	2	Y	Page 1 lines 1-26; Page 2 lines 1-34	(c), (d), (e)	Scott E. Brown
Document Request No. 2	1	Y	Page 1 lines 1-12	(c), (d), (e)	Scott E. Brown
Attachment A	11	N	Pages 1-2	(c), (d), (e)	Scott E. Brown
		Y	Pages 3-11		
Attachment B Part 1 of 6	10	Y	ALL	(e)	Scott E. Brown
Attachment B Part 2 of 6	26	N	Pages 1-2	(c), (d), (e)	Scott E. Brown
		Y	Pages 3-26		
Attachment B Part 3 of 6	25	N	Pages 1-2	(c), (d), (e)	Scott E. Brown
		Y	Pages 3-25		
Attachment B Part 4 of 6	27	N	Pages 1-2	(c), (d), (e)	Scott E. Brown
		Y	Pages 3-27		
Attachment B Part 5 of 6	26	N	Pages 1-2	(c), (d), (e)	Scott E. Brown
		Y	Pages 3-26		
Attachment B Part 6 of 6	27	N	Pages 1-2	(c), (d), (e)	Scott E. Brown
		Y	Pages 3-27		
1 st Quarter Surveillance Report	25	N	Pages 1-3	(c), (d), (e)	Scott E. Brown
4 th Quarter Surveillance Report	24	N	Pages 1-2	(c), (d), (e)	Scott E. Brown
		Y	Pages 3-24		
CCR Report	16	Y	Page 10 lines 1-4	(d), (e)	Scott E. Brown
Chapter 6 of CCR Report	7	N	Page 1	(d), (e)	Scott E. Brown
		Y	Page 2 lines 1-10; columns A-G		
		N	Pages 3-5		
		Y	Page 6 lines 1-16		
		Y	Page 7 lines 1-6	(d),(e)	