

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

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

DOCKET NO. 20180001-EI
ORDER NO. PSC-2018-0374-CFO-EI
ISSUED: July 30, 2018

ORDER GRANTING FLORIDA POWER & LIGHT COMPANY'S
AMENDED SECOND REQUEST FOR CONFIDENTIAL CLASSIFICATION
(DOCUMENT NO. 02459-2018)

On March 21, 2018, 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 second request for extension of confidential classification (Request) of materials provided pursuant to Audit No. 14-027-4-1 (Document No. 02459-2018). FPL amended its request for confidentiality of Audit No. 14-027-4-1 on July 20, 2018, to request confidentiality for a 36 month period.

Request for Confidential Classification

FPL filed its original request for confidentiality for information contained in Audit No. 14-027-4-1 on May 23, 2014, which was granted by Order No. PSC-14-0484-CFO-EI, issued on September 11, 2014. FPL requested an extension of confidentiality for this material on February 5, 2016, which was granted by Order No. PSC-16-0399-CFO-EI, issued on September 20, 2016. FPL states that some of the information that was the subject of Order No. PSC-16-0399-CFO-EI warrants continued treatment as proprietary and confidential business information. Accordingly, FPL has included Second Revised Exhibits A, B, and C which reduces the number of pages for which confidential treatment is sought. FPL's Second Revised Exhibit C is a table that identifies the specific pages, lines, or columns that remain confidential along with the statutory basis for confidentiality and supporting affidants. Second Revised Exhibit D contains the affidavits of Gerard J. Yupp and Antonio Maceo in support of its request.

FPL contends that the designated portions of the information contained in its responses to Audit No. 14-027-4-1 constitutes proprietary confidential business information entitled to continued protection under Section 366.093, F.S., and Rule 25-22.006, F.A.C. FPL asserts that certain information provided by FPL contains or constitutes internal auditing controls and reports of internal auditors or information relating to internal auditing reports issued in 2013. FPL also asserts that certain information contains or constitutes auditing controls or reports of external auditors or information relating to the same. FPL contends that such information is protected by Section 366.093(3)(b), F.S.

Additionally, FPL states that certain information contains or constitutes contractual data such as pricing and other terms, as well as vendor and supplier rates regarding fuel procurement, 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 and would impair the competitive interests of FPL and its vendors. Certain portions of the information would also place FPL at a disadvantage

when coupled with other information that is publicly available. FPL asserts that this information is protected by Section 366.093(3)(d), F.S.

In its Second Request for Extension, FPL states that it incorporates by reference and adopts the arguments propounded in its prior confidentiality requests. FPL asserts that the period of confidential treatment of the above-numbered documents 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 “[i]nternal 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. 02459-2018 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 unless good cause is shown to grant protection from disclosure for a longer period. Currently the Commission retains audit reports for a period of seven years at which time the audit materials are returned to FPL unless Commission staff or another affected person requests that these audit materials continue to be retained. The nature of these materials will not change in the next three years. Therefore, it is administratively efficient at this time to grant confidentiality classification for a period of 36 months. At the conclusion of this 36-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 Gary F. Clark, as Prehearing Officer, that Florida Power & Light Company's Second Request for Extension of Confidential Classification of Document No. 02459-2018 is granted. It is further

ORDERED that the information contained in Document No. 02459-2018 for which confidential classification has been granted shall remain protected from disclosure for a period of 36 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 Gary F. Clark, as Prehearing Officer, this 30th day of July, 2018.



GARY F. CLARK
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.

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.