

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-2018-0380-CFO-EI
ISSUED: August 1, 2018

ORDER GRANTING FLORIDA POWER & LIGHT COMPANY'S
REQUEST FOR CONFIDENTIAL CLASSIFICATION
(DOCUMENT NO. 03893-2018, X-REF. 03593-2018)

On May 24, 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 a Request for Confidential Classification (Request) of certain information provided pursuant to Audit No. 2018-019-4-2 (Document No. 03893-2018, ex ref. 03593-2018).

Request for Confidential Classification

FPL contends that a portion of the information provided pursuant to Audit No. 2018-019-4-2 contains information of a confidential nature, which is proprietary confidential business information within the meaning of Section 366.093(3), Florida Statutes.

FPL contends that the information is proprietary and confidential business information within the meaning of Section 366.093(3), F.S. This information is intended to be and is treated by FPL as private, and its confidentiality has been maintained. This information includes pricing formulas, payment records, supplier rates for capacity and energy transactions, and other contractual data which, if disclosed, would impair FPL's ability to contract for capacity and energy on favorable terms. FPL contends that this information is protected by Section 366.093(3)(d), F.S.

In addition, FPL contends that this information relates to competitive interests, the disclosure of which would impair the competitive business of FPL, its affiliates, or its vendors. Disclosure of this information would place FPL at a competitive disadvantage when coupled with other information that is publically available. Such information is protected pursuant to Section 366.093(3)(e), F.S.

Also included is information regarding internal auditing controls, reports or notes of internal auditors, and information relating to internal auditing reports issued in 2017. Full and frank disclosure to the Internal Auditing department is essential for the department to do its job. FPL contends that release of information related to reports of internal auditors could discourage this necessary disclosure and negatively impact the effectiveness of the department to the detriment of FPL and its customers. FPL contends that this material is protected pursuant to Section 366.093(3)(b), F.S.

Ruling

Section 366.093(1), F.S., provides that records the Commission has found to contain proprietary 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 has not been voluntarily disclosed to the public. Section 366.093(3), F.S., provides 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 classification as proprietary confidential business information. The information described above appears to be information concerning internal auditing controls, internal audits, contractual data and competitive interests, the disclosure of which would impair the competitive business of FPL or its affiliates or its vendors. Thus, the information identified in Document No. 03893-2018, ex ref. 03593-2018, 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 up to 18 months from the date of issuance of this Order unless good cause is shown that protection from disclosure shall be for a specified longer period. FPL has requested that this information be protected for a period of 36 months due to the fact that if the pricing formulas, actual volumes of fuel purchases, and multi-year contractual terms are made public prior to that date, this data, combined with information already available in the market, could allow suppliers to accurately predict FPL's fuel supply needs thereby driving up the price of fuel passed on to customers. FPL also notes that audit information is maintained by the Commission for a period of seven years and has historically been afforded protection for that entire period for the reasons stated above. Given these factors this material shall be granted confidentiality for a period of 36 months from the date of this Order.

At the conclusion of the 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 hereby

ORDERED by Gary F. Clark, Prehearing Officer, that Florida Power & Light Company's Request for Confidential Classification of Document No. 03893-2018, ex ref. 03593-2018, is granted. It is further

ORDERED that the information in Document No. 03893-2018, ex ref. 03593-2018, for which confidential classification has been granted, shall remain protected from disclosure for a period of up to 36 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 Gary F. Clark, as Prehearing Officer, this 1st day of August, 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.

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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

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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.