

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Energy conservation cost recovery
clause.

DOCKET NO. 20180002-EG
ORDER NO. PSC-2018-0510-CFO-EG
ISSUED: October 22, 2018

ORDER GRANTING FLORIDA PUBLIC UTILITIES COMPANY'S FIRST REQUEST FOR
EXTENSION OF CONFIDENTIAL CLASSIFICATION OF INFORMATION PROVIDED
PURSUANT TO AUDIT NO. 16-019-1-8
(DOCUMENT NO. 05100-2016; X-REF 03427-2016)

BY THE COMMISSION:

On April 26, 2018, pursuant to Section 366.093, Florida Statutes (F.S.), and Rule 25-22.006, Florida Administrative Code (F.A.C.), Florida Public Utilities Company (FPUC) filed its First Request for Extension of Confidential Classification (request) of certain information provided pursuant to Audit No. 16-019-1-8 (audit workpapers) (Document No. 05100-2016; x-ref 03427-2016). This request was filed in Docket No. 20180002-EG.

Request for Confidential Classification

FPUC's original request for confidential treatment of information provided pursuant to Audit No. 16-019-1-8 was granted by Order No. PSC-16-0463-CFO-EG, issued October 14, 2016. FPUC contends that the designated portions of the audit workpapers constitute proprietary confidential business information entitled to continued protection under Section 366.093(3), F.S., and Rule 25-22.006, F.A.C. FPUC avows that this information is intended to be and continues to be treated by FPUC as private and has not been publicly disclosed.

FPUC asserts that the information that was the subject of Order No. PSC-16-0463-CFO-EG warrants continued treatment as proprietary and confidential business information. FPUC contends that the audit workpapers contain detailed information regarding payroll and allocations of payroll expense within FPUC and other Florida affiliates, which if disclosed could impair the efforts of FPUC to compete for services, as well as its ability to attract and retain qualified employees. FPUC argues that this information should be protected under Section 366.093(3), F.S.

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 FPUC as private, and that disclosure of the information would cause harm to FPUC 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:

- (a) Trade secrets.
- (b) Internal auditing controls and reports of internal auditors.
- (c) Security measures, systems, or procedures.
- (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.
- (f) Employee personnel information unrelated to compensation, duties, qualifications, or responsibilities.

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 information concerning: internal auditing controls and reports of internal auditors; security measures, systems, or procedures; bids or other contractual data, the disclosure of which would impair the efforts of FPUC or its affiliates to contract for goods or services on favorable terms; information relating to competitive interests, the disclosure of which would impair the competitive business of the provider of the information; and employee personnel information unrelated to compensation, duties, qualifications, or responsibilities. Thus, the information identified in Document No. 05100-2016; x-ref 03427-2016 shall be granted a continuation of confidential classification. Although FPUC also asserted that this information is protected under Section 366.093(3)(a), F.S., an evaluation of that statutory provision is unnecessary as the information meets the requirements set forth in Section 366.093(3)(b), (c), (d), (e), and (f), F.S.

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. At the conclusion of the 18-month period, the confidential information will no longer be exempt from Section 119.07(1), F.S., unless FPUC 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 Commissioner Gary F. Clark, as Prehearing Officer, that Florida Public Utilities Company's First Request for Extension of Confidential Classification of Document No. 05100-2016; x-ref 03427-2016 is granted. It is further

ORDERED that the information contained in Document No. 05100-2016; x-ref 03427-2016, for which confidential classification has been granted, shall remain protected from disclosure for a period of up to 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 Gary F. Clark, as Prehearing Officer, this 22nd day of October, 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 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.