

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Energy conservation cost recovery
clause.

DOCKET NO. 20180002-EG
ORDER NO. PSC-2018-0511-CFO-EG
ISSUED: October 22, 2018

ORDER GRANTING FLORIDA POWER & LIGHT COMPANY'S SECOND REQUEST FOR
EXTENSION OF CONFIDENTIAL CLASSIFICATION OF MATERIALS PROVIDED
PURSUANT TO AUDIT NO. 14-017-4-1
(DOCUMENT NO. 03653-2014; X-REF 03218-2014)

BY THE COMMISSION:

On January 26, 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 certain materials provided pursuant to Audit No. 14-017-4-1 (audit workpapers) (Document No. 03653-2014; x-ref 03218-2014). This request was filed in Docket No. 20180002-EG.

Request for Confidential Classification

FPL's original request for confidential treatment of information provided pursuant to Audit No. 14-017-4-1 was granted by Order No. PSC-14-0529-CFO-EG, issued October 3, 2014. FPL's first request for extension of confidential treatment was granted by Order No. PSC-16-0308-CFO-EG, issued July 28, 2016. FPL 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. 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 the information that was the subject of Order Nos. PSC-14-0529-CFO-EG and PSC-16-0308-CFO-EG warrants continued treatment as proprietary and confidential business information. FPL's request incorporates by reference and adopts the arguments propounded in its original request and its first request for extension of confidential treatment. Also included within FPL's request is its Second Revised Exhibit D. Second Revised Exhibit D contains the affidavit of Anita Sharma in support of FPL's request.

FPL contends that the audit workpapers contain information concerning bids or other contractual data, the disclosure of which would impair the efforts of FPL to contract for goods or services on favorable terms. FPL argues that this information should be protected under Section 366.093(3)(d), F.S. FPL further contends that the audit workpapers also contain information related to competitive interests, the disclosure of which would impair the competitive business of FPL or its vendors. FPL argues that this information should be protected under Section 366.093(3)(e), F.S.

FPL contends that nothing has changed since the filing of the original request 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 FPL as private, and that disclosure of the information would cause harm to FPL'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:

(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 information concerning bids or other contractual data, the disclosure of which would impair the efforts of FPL or its affiliates to contract for goods or services on favorable terms and 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. 03653-2014; x-ref 03218-2014 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 up to 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 hereby

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. 03653-2014; x-ref 03218-2014 is granted. It is further

ORDERED that the information contained in Document No. 03653-2014; x-ref 03218-2014, 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 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.