

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

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

DOCKET NO. 20210001-EI
ORDER NO. PSC-2021-0166-CFO-EI
ISSUED: May 14, 2021

ORDER GRANTING FLORIDA POWER & LIGHT COMPANY'S
REQUEST FOR CONFIDENTIAL CLASSIFICATION
(DOCUMENT NO. 01726-2021)

On January 29, 2021, 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 Forms 423-2(a), 423-2(b), and 423-2 for the fourth quarter of 2020. (Document No. 01726-2021).

Request for Confidential Classification

FPL contends that the information contained in Forms 423-2(a), 423-2(b) and 423-2 for the fourth quarter of 2020, as more specifically described in the tables in Attachment C to its Request, constitutes proprietary confidential business information entitled to protection under Section 366.093, F.S., and Rule 25-22.006, F.A.C. FPL asserts that this information is intended to be and is treated by FPL as private and has not been publicly disclosed.

FPL's justification for asserting that the information is confidential is found in more detail in Attachment C to its Request. FPL contends that part of the information involves contractual information which, if made public, "would impair the efforts of FPL to contract for goods or services on favorable terms" pursuant to Paragraph 366.093(3)(d), F.S. FPL asserts that some of the information delineates the price per barrel FPL has paid for fuel oil for specific shipments from specific suppliers and that the information would allow suppliers to compare an individual supplier's price with the market quote for that date of delivery and thereby determine the contract pricing formula between FPL and that supplier. The availability of this type of information would likely eliminate the opportunity for FPL to obtain price concessions from any one supplier resulting in higher fuel oil prices.

FPL further states that on April 1, 2010, FPL was contacted by the BNSF Railway (BNSF) concerning FPL's disclosure of BNSF transportation rate information on FPL's Form 423 filing. BNSF has asserted that the transportation rate information is confidential pursuant to its Rail Transportation Agreement BNSF-C-12339 with Georgia Power Company (GPC) and that FPL is obligated to maintain the confidentiality of that information. FPL argues that this information is confidential under Subsections 366.093(3)(d) and 366.093(3)(e), F.S., because its disclosure would "impair the efforts of GPC, as agent for FPL to contract for goods and services on favorable terms" and would "impair the competitive business of BNSF."

Ruling

Subsection 366.093(1), F.S., provides that records the Florida Public Service Commission (Commission) has found to contain proprietary business information shall be kept confidential and shall be exempt from Chapter 119, F.S. Subsection 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. Subsection 366.093(3), F.S., provides 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 information and data provided in this request satisfies the criteria set forth in Subsection 366.093(3), F.S., for classification as proprietary confidential business information. The information related to fuel oil pricing appears to be "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" 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. 01726-2021 shall be granted confidential classification.

Pursuant to Subsection 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 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 Andrew Giles Fay, as Prehearing Officer, that Florida Power & Light Company's Request for Confidential Classification of Document No. 01726-2021 is granted, as set forth herein. It is further

ORDERED that the information in Document No. 01726-2021 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.

By ORDER of Commissioner Andrew Giles Fay, as Prehearing Officer, this 14th day of May, 2021.



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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.

SBr

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Subsection 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.