

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

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

DOCKET NO. 20230001-EI
ORDER NO. PSC-2023-0073-CFO-EI
ISSUED: February 6, 2023

ORDER GRANTING FLORIDA POWER & LIGHT COMPANY'S SECOND
REQUEST FOR EXTENSION OF CONFIDENTIAL CLASSIFICATION
(DOCUMENT NO. 04073-2019, X-REF. 04439-2019)

On November 16, 2022, 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 of information provided pursuant to Audit No. 2019-017-1-2 (Request) (Document No. 04073-2019, x-ref. 04439-2019). This material was originally granted confidentiality by Order PSC-2019-0346-CFO-EI, issued August 22, 2019, and confidentiality was extended by Order No. PSC-2021-0178-CFO-EI, issued May 19, 2021.

Request for Confidential Classification

FPL contends that the information provided pursuant to Audit No. 2019-017-1-2 continues to contain information of a confidential nature, which is proprietary confidential business information within the meaning of Section 366.093(3), F.S.

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 consists of pricing information for capacity purchases between FPL and various counterparties. Disclosure of this information would adversely impact FPL's ability to negotiate the best prices for this commodity in the future. In addition, potential counterparties may refuse to enter into contracts with FPL, or may charge higher prices, if the price terms were made public. Thus, FPL contends that this information is protected by Sections 366.093(3)(d) and (e), 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:

- 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 service 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 continue to satisfy the criteria set forth in Section 366.093(3), F.S., for classification as proprietary confidential business information. The pricing data 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 service 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. 04073-2019, x-ref. 04439-2019, shall be granted continued 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. 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. FPL has requested that these materials be given confidentiality for a period of 36 months. FPL argues that the Commission currently 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 the audit materials continue to be retained. The nature of these materials will not change in the next three years. Given these facts, administrative efficiency is served by extending the period of confidential classification for these materials for a period of 36 months.

Based on the foregoing, it is hereby

ORDERED by Mike La Rosa, as Prehearing Officer, that Florida Power & Light Company’s Second Request for Extension of Confidential Classification for portions of Audit No. 2019-017-1-1 (Document No. 04073-2019, x-ref. 04439-2019), is granted. It is further

ORDERED that the information in Document No. 04073-2019, x-ref. 04439-2019, 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 Mike La Rosa, as Prehearing Officer, this 6th day of February, 2023.



Mike La Rosa
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.