

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Standard Offer Contract) DOCKET NO. 950110-EI
for the purchase of firm) ORDER NO. PSC-96-0617-CFO-EI
capacity and energy from a) ISSUED: May 8, 1996
qualifying facility between)
Panda-Kathleen, L.P. and Florida)
Power Corporation.)
_____)

ORDER GRANTING REQUESTS FOR CONFIDENTIAL CLASSIFICATION

On February 16, 1996, Panda-Kathleen, L.P./Panda Energy Corporation (Panda) filed a Request for Confidential Classification regarding documents attached as exhibits to the Amended Prefiled Rebuttal Testimony of Brian A. Morrison (Document No. 01840-96). On February 23, 1996, Florida Power Corporation (FPC) filed a Request for Confidential Classification for Ralph Killian's exhibit RK-5 (Document No. 02218-96). This Order addresses Panda's and FPC's Request for Confidential Classification.

Under Section 119.01, Florida Statutes, all documents submitted to this Commission are public records. The only exceptions to this law are documents which are exempt pursuant to specific statutory terms or provisions. Moreover, under Section 366.093, and Rule 25-22.006, Florida Administrative Code, the burden of demonstrating that materials qualify for confidential classification falls upon the person requesting such treatment.

In Panda's Request for Confidential Classification regarding certain exhibits appended to the Amended Pre-filed Rebuttal Testimony of Brian A. Morrison, Panda argues that the materials constitute "proprietary confidential business information" which it either owns or controls and treats as private. Panda specifically requests confidential classification as follows: BAM exhibit 3, page 2, line 25; BAM exhibit 4, page 1, lines 6 and 7; BAM exhibit 19, pages 1, 3-5; BAM exhibit 23, pages 7-9; BAM exhibit 24, pages 7-9, and 11; BAM exhibit 25, pages 6-9, and 11; BAM exhibit 26, page 1, lines 11-15; BAM exhibit 27, page 6, line 31; BAM exhibit 27, page 35, lines 3-7; Exhibit 27, page 36, lines 26-28; BAM exhibit 27, page 39, lines 7-10; BAM exhibit 27, page 41; BAM exhibit 28, page 1; BAM exhibit 29, page 1 and 2; BAM exhibit 30, page 4; BAM exhibit 32, pages 3-5; BAM exhibit 33, page 6, lines 10-17; BAM exhibit 33, page 14, lines 5-6; and BAM exhibit 33, page 14, lines 26-29. In addition, Panda requests confidential classification for BAM 19, page 2. On page 2, Panda does not request confidential classification for the following two sections: Disbursement Assumptions: Plant Capacity (kw) 112,100; Notes to

DOCUMENT NUMBER-DATE

05165 MAY-8 88

FPSC-RECORDS/REPORTING

Assumptions: Equipment description: one abm 11M, Steam Turbine HRSG. Panda states that this information regarding the financial models and financial terms upon which Panda will seek to finance and operate the Panda-Kathleen project should be confidential. Panda maintains that the disclosure of the materials would severely prejudice Panda in its ability to negotiate with lenders and other financiers.

An examination of Panda's exhibits for which it requests confidential classification shows they contain confidential information which, if released, could affect Panda's ability to obtain financing on favorable terms. Therefore, the information for which confidential classification is sought is granted.

On January 26, 1996, FPC filed a Request for Confidential Classification for page 5, lines 16-19, of this same document. FPC, however, only provided the first 21 pages of the document at that time. At the February 19, 1996, hearing Panda informed FPC of its intent to use FPC's entire document as Exhibit RK-5 to Mr. Killian's testimony.

In FPC's Request for Confidential Classification regarding Exhibit RK-5, Cogeneration Review, FPC argues that this internal document contains proprietary confidential information with respect to Page 400189, lines 16-19; Page 400213, lines 11-14; Page 400214, Table 2 and lines 6-19; Page 400215, lines 1-3; Page 400224, lines 26-38; and Page 400231, lines 3-10. FPC states that the information contains financial data and strategies on bond ratings. FPC argues that disclosure of this information could result in an increase in the charges and fees for bonds and commercial paper and reveal its strategy regarding the buyout of certain QF contracts. Therefore, FPC may not have the ability to negotiate and obtain favorable terms in the financial and equity markets in the future or contract with QFs for favorable buyout terms.

Upon consideration, the materials are as described by Panda and FPC. An examination of FPC's exhibit RK-5 shows that the materials contain confidential information which, if released, would cause harm to FPC's business operations and to the ratepayers. Therefore, the information for which confidential classification is sought is granted.

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Based on the foregoing, it is therefore

ORDERED by Chairman Susan F. Clark, as Prehearing Officer, that Panda-Kathleen's, L.P./Panda Energy Corporation's, Request for Confidential Classification, as discussed above, is granted. It is further

ORDERED that Florida Power Corporation's Request for Confidential Classification, as discussed above, is granted. It is further

ORDERED that, pursuant to Section 366.093(4), Florida Statutes, and Rule 25-22.006(8), Florida Administrative Code, any finding of confidentiality herein shall expire eighteen (18) months from the date of issuance of this Order in the absence of a renewed request for confidentiality pursuant to Section 366.093, Florida Statutes. It is further

ORDERED that this Order will be the only notification by the Commission to the parties concerning the expiration of the confidentiality granted herein.

By ORDER of Chairman Susan F. Clark, as Prehearing Officer, this 8th day of May, 1996.



SUSAN F. CLARK, Chairman and
Prehearing Officer

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NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.59(4), 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.

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 25-22.038(2), Florida Administrative Code, if issued by a Prehearing Officer; (2) reconsideration within 15 days pursuant to Rule 25-22.060, Florida Administrative Code, if issued by the Commission; or (3) 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 Director, Division of Records and Reporting, in the form prescribed by Rule 25-22.060, 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.