

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Request for confidential ) DOCKET NO. 961013-EI  
classification of portions of ) ORDER NO. PSC-96-1478-CFO-EI  
audit report regarding ) ISSUED: December 4, 1996  
Commercial/Industrial Demand )  
Side Management by Florida Power )  
& Light Company )

---

ORDER GRANTING CONFIDENTIAL CLASSIFICATION

On September 17, 1996,<sup>1</sup> Florida Power & Light Company (FPL) filed a Request for Confidential Classification of Portions of Staff's Audit Report Regarding Commercial/Industrial Demand Side Management Programs (Request). In its Request, page 2, FPL noted that the information for which confidential classification in this document (No. 09170-96) is sought consists of the "identity of certain FPL customers who have requested studies from FPL and other entities regarding energy alternatives for their highly competitive businesses and the contents of the studies." FPL further noted that FPL treats such information as confidential as a matter of corporate policy and that these customers do not want such information disclosed to their competitors because "the disclosure of the contents of the analyses could harm them in the conduct of their competitive enterprises."

FPL has not sought confidential classification as to the energy alternatives being considered by these customers but only the identity of the customers themselves. In the absence of confidential treatment, FPL stated that disclosure of both the customer's identity and the alternatives being considered would give competitors information as to:

- a) the rate under which the customer takes service
- b) paybacks for alternatives considered by the customers
- c) the nature of capital investments the customers have considered and may still be considering
- d) the name of the persons who have performed analyses for the customers

---

<sup>1</sup>An earlier, less complete, version of this Request was filed August 28, 1996.

DOCUMENT NUMBER-DATE

12898 DEC-4 96

FPSC-RECORDS/REPORTING

- e) The nature of the studies the customers have commissioned to reduce costs and make them more competitive.

Request, page 3.

Florida law presumes that documents submitted to governmental agencies shall be public records. The only exceptions to this presumption are the specific statutory exemptions provided in the law and exemptions granted by governmental agencies pursuant to the specific terms of a statutory provision. This presumption is based on the concept that government should operate in the "sunshine." It is the company's burden to demonstrate that the documents fall into one of the statutory examples set out in Section 366.093, Florida Statutes, or to demonstrate that the information is proprietary confidential information, the disclosure of which will cause the company or its ratepayers harm.

Based on the information provided, FPL's Request establishes the potential of harm to the competitive interests of its customers that disclosure of the information at issue would cause, as well as FPL's corporate policy of treating such information as confidential. Section 366.093(3)(e) provides for confidential treatment of

Information relating to competitive interests, the disclosure of which would impair the competitive business of the provider of the information.

The information at issue has been shown to be encompassed by this statutory provision, based on the arguments presented in FPL's Request.

In consideration of the foregoing, it is therefore

ORDERED by Commissioner Diane K. Kiesling as Prehearing Officer, that the information in Document 09170-96 for which confidential classification is sought shall be treated as proprietary confidential business information. It is further

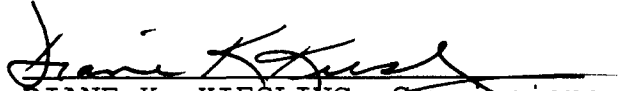
ORDERED that the information discussed above shall be afforded confidential treatment until June 1, 1998. It is further

ORDERED that this Order will be the only notification by the Commission to the parties concerning the expiration of the confidentiality time period. It is further

ORDERED that this docket is closed.

ORDER NO. PSC-96-1478-CFO-EI  
DOCKET NO. 961013-EI  
PAGE 3

By ORDER of Commissioner Diane K. Kiesling, as Prehearing Officer, this 4th day of December, 1996.

  
DIANE K. KIESLING, Commissioner  
and Prehearing Officer

( S E A L )

RCB

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.