

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for
Determination of Need of Hines
Unit 2 Power Plant.

DOCKET NO. 001064-EI
ORDER NO. PSC-00-1987-CFO-EI
ISSUED: October 26, 2000

ORDER GRANTING FLORIDA POWER CORPORATION'S THIRD REQUEST FOR
CONFIDENTIAL CLASSIFICATION (DOCUMENT NO. 13238-00)

Pursuant to Section 366.093, Florida Statutes, and Rule 25-22.006, Florida Administrative Code, Florida Power Corporation (FPC or Company) has requested confidential classification of certain documents provided to Commission Staff in response to Staff's First Request for Production of Documents. Those documents are identified by Bates Stamp Nos. FPC001-019, FPC032, FPC040, FPC148-149, FPC154-155, FPC173-177, FPC178-210, FPC212-233, FPC234, FPC235-251 and FPC296-299. This request for confidential classification was filed on October 18, 2000. The confidential information is filed with the Commission as Document No. 13238-00.

FPC asserts that the documents with Bates Stamp Nos. FPC001-019, FPC212, FPC234 and FPC235-251 contain information provided by the bidders, in response to FPC's Requests for Proposal (RFP), that the bidders designated as confidential. Accordingly, FPC states that it has treated the information as confidential, has restricted access to the information within the Company to those who needed the information to perform their responsibilities for the Company, and has not made the information public. FPC maintains that disclosure of such information would impair FPC's efforts to contract for services on favorable terms and as such, is entitled to protection from disclosure under Section 366.093(3)(d), Florida Statutes. Confidential classification was previously granted to FPC's bid information by Order No. PSC-00-1881-CFO-EI, issued October 16, 2000, in this docket.

FPC contends that the documents with Bates Stamp Nos. FPC040, FPC148-149 and FPC154-155 contain sensitive, proprietary information provided to FPC by FPC's equipment supplier and potential gas transportation suppliers for the Hines 2 Unit. Additionally, FPC states that the documents with Bates Stamp Nos. FPC173-177 contain proprietary modeling formats belonging to one of FPC's system model providers. FPC requests confidential classification for the documents with Bates Stamp Nos. FPC040, FPC148-149, FPC154-155 and FPC173-177 because they contain confidential, sensitive proprietary business information belonging

DOCUMENT NUMBER-DATE

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to third parties who provided the documents or information to FPC with the express understanding that it would be kept confidential. FPC contends that disclosure of this third party proprietary information would impair FPC's efforts to efficiently and effectively operate its system and as such, is entitled to protection from disclosure under Section 366.093, Florida Statutes.

FPC states that the documents with Bates Stamp Nos. FPC178-210 and FPC296-299 contain the confidential, proprietary contract data between FPC and its equipment supplier for the Hines 2 power plant. Additionally, FPC maintains that the documents with Bates Stamp Nos. FPC032 and FPC213-233 are detailed financial pro formas containing information that embodies confidential, proprietary contract and variable operation and maintenance information provided to FPC by FPC's equipment supplier. Further, FPC contends that the documents with Bates Stamp Nos. FPC296-299 contain confidential, sensitive management information with respect to the internal financial assessment of the Hines 2 Unit. FPC asserts, therefore, that disclosure of this information concerning the contract terms and negotiations with FPC's suppliers would impair FPC's efforts to contract for equipment or services on favorable terms and as such, is entitled to protection from disclosure under Section 366.093(3)(d), Florida Statutes.

FPC maintains that these documents meet the requirements of Section 366.093(3)(d), Florida Statutes, as 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. FPC asserts that this information is proprietary, confidential business information and as such, is entitled to protection from disclosure under Sections 366.093(1), and (3)(d), Florida Statutes.

Section 366.093(1), Florida Statutes, provides that "any records received by the Commission which are shown and found by the Commission to be proprietary confidential business information shall be kept confidential and shall be exempt from the Public Records Act." Proprietary confidential business information means information that is: (i) intended to be and is treated as private, confidential information by the Company, (ii) because disclosure of the information would cause harm, (iii) either to the Company's ratepayers or the Company's business operations, and (iv) the information has not been voluntarily disclosed to the public.

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Section 366.093(3), Florida Statutes. FPC asserts that public disclosure of this confidential, proprietary information could undermine the ability of the Company to obtain the information in the future or cause the suppliers to impose even more restrictive terms on the receipt and use of the information, thereby causing harm to the Company and its ratepayers.

Therefore, FPC requests that the confidential bidder information, third party proprietary information, proprietary contract information and confidential management information contained in the documents identified by the Bates Stamp Nos. listed above, be granted confidential classification.

CONCLUSION

Upon review, the information described above 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." Section 366.093(3)(d), Florida Statutes. Therefore, FPC's Third Request for Confidential Classification (Document No. 13238-00), is granted.

Section 366.093(4), Florida Statutes, provides that "any finding by the Commission that records contain proprietary confidential business information is effective for a period not to exceed 18 months, unless good cause is shown for a specified longer period." The Company did not specify a time period in its request. Therefore, this information shall be granted confidential classification for a period of 18 months from the date of issuance of this Order.

It is therefore

ORDERED by Commissioner Lila A. Jaber, as Prehearing Officer, that Florida Power Corporation's Third Request for Confidential Classification (Document No. 13238-00), is granted. It is further

ORDERED that the information described within the body of this Order and contained in Document No. 13238-00 shall be granted confidential classification for a period of 18 months from the date of the issuance of this Order. It is further

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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 Lila A. Jaber, as Prehearing Officer, this 26th day of October, 2000.



LILA A. JABER
Commissioner and Prehearing Officer

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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.

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,

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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.