

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

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

DOCKET NO. 000001-EI
 ORDER NO. PSC-00-2521-CFO-EI
 ISSUED: December 28, 2000

ORDER GRANTING CONFIDENTIAL CLASSIFICATION OF CERTAIN MATERIALS OBTAINED IN PREPARATION OF THE FUEL COST RECOVERY AUDIT OF FLORIDA POWER & LIGHT COMPANY FOR THE YEAR ENDING DECEMBER, 1999 (DOCUMENTS NOS. 09675-00 AND 10252-00)

Florida Power & Light Company (FPL) requests confidential classification of certain materials obtained during the Fuel Cost Recovery Clause Audit, Audit No. 00-021-4-3 (Audit). FPL makes this request pursuant to Section 366.093, Florida Statutes, and Rule 25-22.006, Florida Administrative Code. FPL asserts that this information is intended to be, and is treated by FPL and its affiliates as confidential information. FPL affirms that this information has not been publicly disclosed. This request for confidential classification was filed on August 21, 2000. The information for which FPL seeks confidential treatment is filed with the Commission as Documents Nos. 09675-00 and 10252-00.

FPL requests that the following work papers be granted confidential classification:

STAFF WORKING PAPER NO(S)	PAGE(S)	COLUMN(S)/LINE(S)
43-3	30	Cols. A-B
43-4	1	Col. A, Lines 1-2
43-4	2	Col. A, Lines 1-4
43-4/1	1	Cols. A-B
43-4/1	2	Cols. A-C
43-4/3	1	Cols. A-B, Lines 1-16
43-4/4	1	Cols. A-B, Lines 1-19
43-4/4	2	Lines 1-3

DOCUMENT NUMBER-DATE

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FPSC-RECORDS/REPORTING

STAFF WORKING PAPER NO(S)	PAGE(S)	COLUMN(S)/LINE(S)
44-1/1	1	Col. A
44-1/1-1	1	Lines 1-10
44-1/1-1	2	Lines 1-31
44-1/1-2	1	Lines 1-14
44-1/1-3	1	Lines 1-25
44-2	1	Cols. A-B, Lines 1-3
44-2	2	Cols. A-AA
44-2	3-5	Cols. A-Z
44-3	1	Lines 1-10
44-3	2	Lines 1-32
44-3	4	Lines 1-15
49-1	1	Lines 1-11
49-1/1	1	Lines 1-8
49-1/1	2	Lines 1-3
49-1/1	3	Col. A, Lines 1-4
49-1/2	1	Lines 1-15
49-1/3	1	Lines 1-15
49-1/4	1	Lines 1-9
49-1/5	1	Lines 1-9
49-1/6	1	Col. A
49-1/7	1	Col. A

FPL asserts that the information described above is confidential information under both subsections (d) and (e) of Section 366.093, Florida Statutes. FPL seeks confidential classification for contractual and pricing information such as fuel prices by plant, and the timing of off system power requirements and purchases. Additionally, FPL requests confidential

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classification for other contractual data including payment records, purchase order numbers and contractor and supplier information, the disclosure of which would impair the efforts of FPL or its affiliates to contract for goods and services on competitive terms. Section 366.093(3)(d), Florida Statutes.

FPL asserts that, pursuant to Section 366.093, Florida Statutes, such information is entitled to confidential classification and is exempt from the mandatory disclosure provisions of the public records law. FPL asserts that this information "concerns 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. FPL also asserts that the information for which it seeks confidential classification relates "to competitive interests, the disclosure of which would impair the competitive business of the provider of the information." Section 366.093(3)(e), Florida Statutes.

CONCLUSION

Upon review it appears that the information discussed above is proprietary, confidential business information and should be given confidential treatment for a period of eighteen months from the date of the issuance of this Order to avoid harm to the company and its ratepayers. Based on the foregoing, FPL's request for confidential treatment of Documents Nos. 09675-00 and 10252-00 is granted.

FPL also requests that the confidential information be returned to FPL "in accordance with section 366.093(4) of the Florida Statutes as soon as the information is no longer necessary for the Commission to conduct its business." However, these types of audit work papers are retained by the Commission for 25 years. 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..." FPL 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. If FPL wishes continued protection for these documents, they may petition for continued protection prior to expiration of the declassification date.

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It is therefore

ORDERED by Commissioner Lila A. Jaber, as Prehearing Officer, that the information described in Florida Power and Light Company's request for confidential treatment of certain materials obtained during the fuel cost recovery audit for the year ending December, 1999, Documents Nos. 09675-00 and 10252-00, is granted confidential classification. It is further

ORDERED that the information described within the body of this Order shall be granted confidential treatment for 18 months. It is further

ORDERED that this Order will 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 28th Day of December, 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.

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, 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.