

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition by Florida Power Corporation for approval of a negotiated qualifying contract with Jefferson Power, LLC.

DOCKET NO. 020557-EQ
ORDER NO. PSC-02-1105-CFO-EQ
ISSUED: August 12, 2002

ORDER GRANTING CONFIDENTIALITY TO DOCUMENT NO. 06470-02

On June 24, 2002, Florida Power Corporation (FPC) filed a Request for Confidential Classification for information contained in Document No. 06470-02. The document in question contains a negotiated cogeneration contract between FPC and a qualifying facility. The information identified by FPC as confidential is the capacity and energy payments made by FPC to Jefferson Power and the annual cost savings to FPC as a result of the contract. The information for which confidentiality is requested appears in the document as described below:

Exhibit A	Page 6	Lines 23, 24 and 29
Exhibit A	Page 7	Line 4
Appendix A	Page 20	Line 18
Exhibit B	Page 1	Lines 4-7 of Columns 2-4 and 9

FPC asserts that Document No. 06470-02 contains proprietary, confidential business information, as defined in Sections 366.093(3)(d) and 366.093(3)(e), Florida Statutes. FPC further asserts that disclosure of this information will impair its ability to negotiate similar contracts with owners of other qualifying facilities on favorable terms, to the detriment of FPC's customers. FPC is concerned that potential and existing qualifying facility suppliers could gain knowledge of the contractual and pricing terms of the Jefferson Power contract.

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." Rule 25-22.006(4)(c), Florida Administrative Code, provides that it

ORDER NO. PSC-02-1105-CFO-EQ
DOCKET NO. 020557-EQ
PAGE 2

is the Company's burden to demonstrate that the documents fall into a statutory exemption or that the information is proprietary confidential business information, the disclosure of which will cause the Company or its ratepayers harm.

Section 366.093, Florida Statutes, defines "proprietary confidential business information" as:

[I]nformation, regardless of form or characteristics, which is owned or controlled by the person or company, is intended to be and is treated by the person or company as private in that the disclosure of the information would cause harm to the ratepayers or the person's or company's business operations, and has not been disclosed unless disclosed pursuant to a statutory provision, an order of a court or administrative body, or private agreement that provides that the information will not be released to the public.

Based on review of the document and the information in FPC's Request, the material meets the standards for confidentiality. The information is proprietary confidential business information. FPC owns or controls the information and treats it as private. If the information were disclosed, it would harm FPC's ability to negotiate which would in turn harm FPC's ratepayers.

Pursuant to Section 366.093(4), Florida Statutes, confidential protection may only be granted for a period of 18 months unless the entity requesting confidential classification shows good cause why the period should be extended. FPC did not request a specific duration for the confidential status of the document, so the document will be granted confidential status for 18 months.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that Florida Power Corporation's Request for Confidential Classification filed on June 24, 2002, is granted. It is further

ORDERED that pursuant to Section 366.093(4), Florida Statutes, and Rule 25-22.006, Florida Administrative Code, any confidentiality granted to the material specified herein shall

ORDER NO. PSC-02-1105-CFO-EQ
DOCKET NO. 020557-EQ
PAGE 3

expire eighteen months from the date of the issuance of this Order in the absence of a renewed request for confidentiality. 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.

By ORDER of Commissioner Michael A. Palecki, as Prehearing Officer, this 12th Day of August, 2002.



MICHAEL A. PALECKI
Commissioner and Prehearing Officer

(S E A L)

MKS

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.

ORDER NO. PSC-02-1105-CFO-EQ
DOCKET NO. 020557-EQ
PAGE 4

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 the Commission Clerk and Administrative Services, 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.