

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

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

DOCKET NO. 020001-EI
 ORDER NO. PSC-02-1437-CFO-EI
 ISSUED: October 21, 2002

ORDER GRANTING CONFIDENTIAL CLASSIFICATION OF CERTAIN MATERIALS OBTAINED IN PREPARATION OF THE CAPACITY COST RECOVERY AUDIT (AUDIT NO. 02-044-4-1) OF FLORIDA POWER & LIGHT COMPANY FOR THE YEAR ENDING DECEMBER, 2001 (DOCUMENTS NOS. 06362-02, 06955-02 AND 09160-02)

Florida Power & Light Company (FPL) requests confidential classification of certain materials obtained during the Capacity Cost Recovery Clause Audit, Audit No. 02-044-4-1 (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 July 8, 2002. The information for which FPL seeks confidential treatment is filed with the Commission as Documents Nos. 06362-02, 06955-02, and 09160-02.

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

WORK PAPER NUMBER	PAGE(S)	COLUMN(S) LINE(S)	TYPE OF INFORMATION
42-1/1-2	1-2	All	Sensitive Competitive Business Information
42-1/4	1	Col E, 3-24	Sensitive Competitive Business Information
42-1/4-1	1	All	Sensitive Competitive Business Information

DOCUMENT NUMBER DATE

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WORK PAPER NUMBER	PAGE(S)	COLUMN(S) LINE(S)	TYPE OF INFORMATION
42-3	1	Col C, 2-7; 8-37	Security Measures
42-3	2	Col C, 2-7; 8-39	Security Measures
42-3	3	Col C, 2-7; 8-28	Security Measures
43-1/1-1	1	11-13; Col D, 15-21	Security Measures
43-1/2-1	1	10-12; Col C, 13-20	Security Measures
43-1/2-2	1	10-12; Col C, 14-21	Security Measures
43-2/1-1	1	10-12; Col C, 14-21	Security Measures
43-2/2-1	1	11-13; Col D, 15-22	Security Measures
43-2/2-2	1	11-13; Col C, 15-22	Security Measures

WORK PAPER NUMBER	PAGE(S)	COLUMN(S) LINE(S)	TYPE OF INFORMATION
44-1/1	1	Col A, 2, 5-6; Col B-C, 7; Col E-F, 7; 13, 15-21	Sensitive Competitive Business Information
44-1/1-1	1	Col E, 13-31	Sensitive Competitive Business Information
44-1/1-2	1	Col E, 12-29	Sensitive Competitive Business Information
44-1/1-2/1	1	1, 3-8	Sensitive Competitive Business Information
44-1/1-2/2	1	Col K, 1-3	Sensitive Competitive Business Information
44-1/1-2/2	2	Col L, 3-46	Sensitive Competitive Business Information
44-1/1-3	1	All	Sensitive Competitive Business Information
44-2/1	1	Col A, 2; 5-6; Col B-C, 7; Col E-F, 7; 13, 15-21	Sensitive Competitive Business Information
44-2/1-1	1	Col I, 3-24	Sensitive Competitive Business Information

WORK PAPER NUMBER	PAGE(S)	COLUMN(S) LINE(S)	TYPE OF INFORMATION
44-2/1-2	1	Col B, 11-29	Sensitive Competitive Business Information
44-2/1-1	1	All	Sensitive Competitive Business Information
45	1	All	Sensitive Competitive Business Information
45-1/1	1	Col B-C, 3-8; 9-70	Sensitive Competitive Business Information
45-1/1	2	All	Sensitive Competitive Business Information
45-1/1-1	1	1-2; Col A, 3; Col D, 6-8; 8-44	Sensitive Competitive Business Information
45-1/1-1	2	3-25	Sensitive Competitive Business Information
45-1/1-1/1	1-9	All	Sensitive Competitive Business Information
45-1/1-2	1	All	Sensitive Competitive Business Information
45-1/1-2	2	3-25	Sensitive Competitive Business Information
45-1/1-2/1	1-3	All	Sensitive Competitive Business Information
45-2/1	1-2	All	Sensitive Competitive Business Information

WORK PAPER NUMBER	PAGE(S)	COLUMN(S) LINE(S)	TYPE OF INFORMATION
45-2/1-1	1	Col C-D, 4-7; 7-41	Sensitive Competitive Business Information
45-2/1-2	1	All	Sensitive Competitive Business Information
45-2/1-3	1	3-32	Sensitive Competitive Business Information
45-2/1-3	2	All	Sensitive Competitive Business Information
45-2/1-3/1	1	2-5, 8-35	Sensitive Competitive Business Information
45-2/1-3/1	2	All	Sensitive Competitive Business Information
45-2/2	1	All	Sensitive Competitive Business Information

FPL seeks confidential classification for internal audits and internal auditing controls. FPL also 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 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 favorable 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 the sensitive contractual and competitive information, if disclosed, 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.

DECLASSIFICATION

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 . . . ". Accordingly, 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, it may petition for continued protection prior to expiration of the declassification date.

CONCLUSION

Upon review, it appears that the information discussed above is proprietary confidential business information and should be granted confidential treatment to avoid harm to the company and its ratepayers. Section 366.093(3)(b), (d), and (e), Florida Statutes. Therefore, FPL's request for confidential treatment of Documents Nos. 06362-02, 06955-02, and 09160-02 is granted.

Based on the foregoing, it is

ORDERED by Commissioner Michael A. Palecki, as Prehearing Officer, that the information described in Florida Power and Light Company's request for confidential treatment of certain materials obtained during the capacity cost recovery audit for the year ending December, 2001, Documents Nos. 06362-02, 06955-02, and 09160-02, is granted confidential classification. It is further

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ORDERED that pursuant to Section 366.093, Florida Statutes, and Rule 25-22.006, Florida Administrative Code, any confidentiality granted to the documents specified herein shall expire eighteen (18) months from the date of 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 21st day of October, 2002.



MICHAEL A. PALECKI
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.

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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 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.