

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition to determine
need for Hines Unit 3 in Polk
County by Florida Power
Corporation.

DOCKET NO. 020953-EI
ORDER NO. PSC-02-1600-CFO-EI
ISSUED: November 19, 2002

ORDER GRANTING FLORIDA POWER CORPORATION'S SECOND REQUEST FOR
CONFIDENTIAL CLASSIFICATION OF PORTIONS OF RESPONSES TO STAFF'S
INTERROGATORIES NOS. 11, 15, 16, 24, AND 59

On October 28, 2002, Florida Power Corporation (FPC), pursuant to Section 366.093, Florida Statutes, and Rule 25-22.006, Florida Administrative Code, filed its Second Request for Confidential Classification. The Request seeks confidential treatment for information contained in FPC's responses to Staffs Interrogatories Nos. 11, 15, 16, 24, 50, 54, and 59.

The responses to Staff's Interrogatories Nos. 11, 15, 16, and 24 contain pricing information, information that would permit determination of the location of certain bidder's proposed projects, or discover the identities of the bidders who submitted proposals in response to FPC's Request For Proposals (RFP). The responses to staff's Interrogatories Nos. 50 and 54 identify the contractor whose contract with FPC formed the basis of the cost estimate for FPC's Hines 2 project. Finally, the response to staff Interrogatory No. 59 contains information relating to disabling two or more of FPC's Hines units.

Due to the nature of the responses to the Interrogatories, a specific line by line or field by field identification of the information for which confidential classification is sought could not be provided. Instead, FPC has provided a matrix describing which portions of the individual responses FPC seeks confidential classification for, a summary of which is attached to this Order as Appendix A. I find that the information provided by FPC sufficiently identifies the material for which confidential classification is sought, as required by Rule 25-22.006(4)(a), Florida Administrative Code.

The responses to staff's Interrogatories Nos. 50 and 54 have been reviewed by staff, and have been returned to FPC. Therefore, no ruling on the confidentiality of these documents is required.

DOCUMENT NUMBER-DATE

12630 NOV 19 02

FPSC-COMMISSION CLERK

Interrogatories Nos. 11, 15, 16, and 24

In support of its Request, FPC explains that the following paragraph was included in its RFP:

The bidders should mark all confidential and proprietary information contained in the proposals as "Confidential." While Florida Power will use its best efforts to protect the confidentiality of such information and only release such information to the members of the evaluation team, management, agents and contractors, and as necessary and consistent with applicable laws and regulations, to its affiliates and regulatory commissions, in no event shall Florida Power be liable to a Bidder for any damages of whatsoever kind resulting from Florida Power's failure to protect the confidentiality of Bidder's information. By submitting a proposal, the Bidder agrees to allow Florida Power to use the results of the RFP as evidence in any proceeding before the Florida Public Service Commission (FPSC). To the extent Florida Power wishes to use information that a Bidder considers confidential, Florida Power will petition the Commission to treat such information as confidential and to limit its dissemination, but Florida Power makes no assurance of the outcome of any such petition.

Seven bids were received and all bidders requested confidential treatment. FPC has not disclosed the bids to the public. FPC states that according to Section 366.093(3)(d), Florida Statutes, "information concerning bids" the "disclosure of which would impair the efforts of the public utility or its affiliates to contract for goods or services on favorable terms" is considered proprietary confidential business information.-

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.

Upon review of the filings submitted, I find that the information contained in FPC's responses to staff's Interrogatories Nos. 11, 15, 16, and 24 satisfies the definition of proprietary confidential business information. It is information which, if disclosed, would impair FPC's ability to contract for goods or services. If bidders thought their bids would be made public, they might not bid at all, or they might withhold sensitive and important information needed to fully understand the costs and benefits of their proposals. In either case, FPC's ability to contract for goods and services on favorable terms would be impaired. FPC's Request for Confidential Classification of the identified portions of the responses to staff's interrogatories Nos. 11, 15, 16, and 24 is therefore granted.

Interrogatory No. 59

FPC asserts that the response to staff's Interrogatory No. 59 includes information which could be used as a "roadmap" for potential terrorists or saboteurs who might seek to disable two or more of FPC's power plants located at the Hines Energy Complex. FPC asserts that this information is treated as confidential and, if disclosed, would pose a real security risk to FPC's plants and employees. I find that this information satisfies the requirements of Section 366.093(3)(c) because it could cause harm to FPC's business operations if disclosed and is therefore granted confidential classification in its entirety.

Pursuant to Section 366.093(4), Florida Statutes, confidential protection may only be granted for a period of 18 months unless the entity making the request shows good cause why the period should be extended. FPC did not specify a duration for the confidential status of the documents, so the documents will be granted confidential status for 18 months from the date of this Order.

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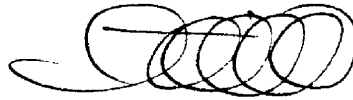
Based on the foregoing, it is

ORDERED by Commissioner Braulio L. Baez, as Prehearing Officer, that Florida Power Corporation's Second Request for Confidential Classification is granted as set forth in the body of this Order. 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 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 pursuant to Section 364.183. 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 Braulio L. Baez, as Prehearing Officer, this 19th day of November, 2002.



RL BAEZ

BRAULIO L. BAEZ
Commissioner and Prehearing Officer

(S E A L)

LDH

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 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.

APPENDIX A

IDENTIFICATION MATRIX OF INFORMATION FOR WHICH
CONFIDENTIAL CLASSIFICATION IS SOUGHT WITH JUSTIFICATION

INTERROGATORY NO.	DESCRIPTION	JUSTIFICATION
Interrogatory No. 11	Bidder C. Two page response reflecting PWRR through 2030 for the expansion plan evaluated in connection with the proposal.	§366.093(3)(d)
Interrogatory No. 11	Bidder D. Two page response reflecting PWRR through 2030 for the expansion plan evaluated in connection with the proposal.	§366.093(3)(d)
Interrogatory No. 11	Bidder E. Two page response reflecting PWRR through 2030 for the expansion plan evaluated in connection with the proposal.	§366.093(3)(d)
Interrogatory No. 11	Bidder F. Two page response reflecting PWRR through 2030 for the expansion plan evaluated in connection with the proposal.	§366.093(3)(d)

Interrogatory No. 15	Bidder specific transmission impact information contained in the discussion of FPC's Transmission Impact Study conducted in connection with evaluation of Bidder C's bid.	§366.093(3)(d)
Interrogatory No. 15	Bidder specific transmission impact information contained in the discussion of FPC's Transmission Impact Study conducted in connection with evaluation of Bidder D's bid.	§366.093(3)(d)
Interrogatory No. 15	Bidder specific transmission impact information contained in the discussion of FPC's Transmission Impact Study conducted in connection with evaluation of Bidder F's bid.	§366.093(3)(d)
Interrogatory No. 16	Table - Transmission Charges (\$/kW -Yr) for Bidders A-G and notes.	§366.093(3)(d)

Interrogatory No. 16	Bidder specific transmission cost impacts contained in the discussion of FPC's Transmission Impact Study conducted in connection with evaluation of Bidder C's bid.	§366.093(3)(d)
Interrogatory No. 16	Bidder specific transmission cost impacts contained in the discussion of FPC's Transmission Impact Study conducted in connection with evaluation of Bidder D's bid.	§366.093(3)(d)
Interrogatory No. 16	Bidder specific transmission cost impacts contained in the discussion of FPC's Transmission Impact Study conducted in connection with evaluation of Bidder F's bid.	§366.093(3)(d)
Interrogatory No. 24	Table - Columns 3 and 4 identifying the location and capacity associated with each of the bids, excluding Bidder E.	§366.093(3)(d)

Interrogatory No. 50	Identification of the EPC contractor discussed in the response.	§366.093 (3) (d)
Interrogatory No. 54	Identification of the EPC contractor discussed in the response.	§366.093 (3) (d)
Interrogatory No. 59	All	§366.093 (3) (e)