

BEFORE THE PUBLIC SERVICE COMMISSION

In re: Fuel and purchased power cost recovery clause with generating performance incentive factor. | DOCKET NO. 050001-EI
| ORDER NO. PSC-05-0049-CFO-EI
| ISSUED: January 14, 2005

ORDER GRANTING REQUEST FOR CONFIDENTIAL CLASSIFICATION
(DOCUMENT NO. 12037-04)

On November 9, 2004, pursuant to Section 366.093, Florida Statutes, and Rule 25-22.006, Florida Administrative Code, Florida Power & Light Company (FPL) filed a request for confidential classification of portions of its response to Interrogatory Nos. 22 and 24 of Staff's Third Set of Interrogatories and its response to Document Request No. 4 of Staff's First Request for Production of Documents (Document No. 12037-04).

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]." Section 366.093(3), Florida Statutes, defines proprietary confidential business information as information that is intended to be and is treated by the company as private, in that disclosure of the information would cause harm to the company's ratepayers or business operations, and has not been voluntarily disclosed to the public. Section 366.093(3), Florida Statutes, provides that proprietary confidential business information includes, but is not limited to "[t]rade secrets" (subsection a); "[i]nformation 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" (subsection d); and "[i]nformation relating to competitive interests, the disclosure of which would impair the competitive business of the provider of the information" (subsection e).

FPL contends that portions of its response to Interrogatory Nos. 22 and 24 and Document Request No. 4 fall within these categories and thus constitute proprietary confidential business information entitled to protection under Section 366.093, Florida Statutes, and Rule 25-22.006, Florida Administrative Code. FPL states that this information is intended to be and is treated by FPL as private and has not been publicly disclosed.

FPL requests confidential classification for Page 2 of 2, Lines 1-66, Columns A-F, of its response to Interrogatory No. 22; Page 1 of 1, Lines 1-7, Columns A-E, of its response to Interrogatory No. 24; Page FCR-4006, Lines 1-10, of its response to Document Request No. 4; and Page FCR-4007, Lines 1-16, of its response to Document Request No. 4. FPL contends that portions of its responses contain vendor-specific information regarding contract prices and other contractual data. FPL contends that disclosure of this information may impair the competitive business interests of FPL and/or the vendors, as well as FPL's ability to contract on favorable terms. FPL asserts that the documents contain proprietary confidential business information that are comprised of trade secrets of FPL, which allow the utility to purchase and sell fuel and electric power on favorable terms for FPL and its customers.

DOCUMENT NUMBER-DATE

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FPSC-COMMISSION CLERK

Upon review, it appears that the above-referenced information contained in FPL's response to Interrogatory Nos. 22 and 24 of Staff's Third Set of Interrogatories and Document Request No. 4 of Staff's First Request for Production of Documents satisfies the criteria set forth in Section 366.093(3), Florida Statutes, for classification as proprietary confidential business information and, thus, shall be treated as confidential. The information constitutes "[i]nformation 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;" and "[i]nformation relating to competitive interests, the disclosure of which would impair the competitive business of the provider of the information." Thus, this information is granted confidential classification.

Pursuant to Section 366.093(4), Florida Statutes, the information for which confidential classification is granted herein shall remain protected from disclosure for a period of 18 months from the date of issuance of this order. At the conclusion of the 18 month period, the confidential information will no longer be exempt from Section 119.07(1), Florida Statutes, unless FPL or another affected person shows, and the Commission finds, that the records continue to contain proprietary confidential business information.

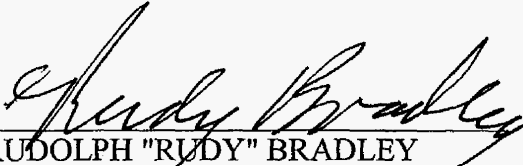
Based on the foregoing, it is

ORDERED by Commissioner Rudolph "Rudy" Bradley, as Prehearing Officer, that Florida Power & Light Company's Request for Confidential Classification of Document No. 12037-04 is granted. It is further

ORDERED that the information in Document No. 12037-04 for which confidential classification has been granted shall remain protected from disclosure for a period of 18 months from the date of issuance of this order. It is further

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 Rudolph "Rudy" Bradley, as Prehearing Officer, this
14th day of January, 2005


RUDOLPH "RUDY" BRADLEY
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; or (2) 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.