

BEFORE THE PUBLIC SERVICE COMMISSION

In re: Request for confidential classification of material provided pursuant to Audit Control No. 02-174-4-1, by Florida Power & Light Company.

DOCKET NO. 021111-EI
ORDER NO. PSC-05-0170-CFO-EI
ISSUED: February 14, 2005

ORDER GRANTING REQUEST FOR EXTENSION OF CONFIDENTIAL CLASSIFICATION FOR PORTIONS OF DOCUMENTS 11267-02 AND 11872-02

On October 18, 2004, Florida Power & Light Company (FPL) requested that the duration of confidential classification be extended for the documents initially granted confidentiality in Order No. PSC-03-0511-CFO-EI, issued on April 17, 2003, in this docket.

FPL states that the information for which it requests that confidential classification be extended consists of: 1) customer-specific account information for non-governmental customers; 2) security measures; 3) sensitive FPL business strategies and plans; and 4) sensitive business information about FPL's affiliate, FiberNet. These are the same reasons for which confidentiality was granted initially. FPL further asserts that the information still remains sensitive. FPL's request is supported by affidavits of several of its employees that have personal knowledge of the company's policies and its handling of the material asserted to be proprietary confidential business information.

Pursuant to Section 366.093, Florida Statutes, any records received by the Commission that are found to be proprietary confidential business information shall be kept confidential and shall be exempt from the public access requirements of Section 119.07(1), Florida Statutes. Under Section 366.093, Florida Statutes, and Rule 25-22.006, Florida Administrative Code, the utility has the burden of demonstrating that the materials qualify for confidential classification. Rule 25-22.006, Florida Administrative Code, requires the utility to demonstrate that the information falls into one of the categories set forth in Section 366.093, Florida Statutes.

Section 366.093(3), Florida Statutes, defines "proprietary confidential business information" as

information, 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. Proprietary confidential business information includes, but is not limited to:

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- (c) Security measures, systems, or procedures.
- (d) Information 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.
- (e) Information relating to competitive interests, the disclosure of which would impair the competitive business of the provider of the information.

FPL reports its sensitive customer information consists of, but is not limited to, customer names, addresses, telephone numbers, account numbers, rates, billing determinants (kW and kWh usage), conservation savings in kW and kWh, and bills. FPL points out that the Commission routinely grants confidential classification to this type of information because the electric usage component of a customer's business may be an important part of the production and operating costs, and revealing this business information to competitors would be harmful to the customer. Order No. PSC-98-0421-CFO-EI, issued March 24, 1998, in Docket 941102-EI; Order No. PSC-98-0620-CFO-EI, issued May 4, 1998, in Docket 971668-EI; Order No. PSC-96-1478-CFO-EI, issued December 4, 1996, in Docket 961013-EI. FPL states that it treats all customer specific account information as confidential. Upon review I find that the information warrants continued confidential classification under Section 366.093(3)(e), as claimed by FPL.

FPL witness Antonio Cuba identifies sensitive information concerning FPL's business plans and strategies that are provided in staff's audit report at pages 8 and 9 of that report. Mr. Cuba also identifies the staff working paper entitled "Physical Distribution Center" as reporting sensitive security measures, systems and procedures. After reviewing this information I find that it is competitive business information, under Section 366.093(3)(e), and a description of security measures, systems or procedures, under Section 366.093(3)(c). Release of this information would harm FPL. The extension of confidentiality shall be granted for this information.

FPL witness Carmen Perez identifies sensitive competitive business information concerning FiberNet's customer and pricing information, financial projections and cost data found within staff's working papers. Upon review I agree that this information is competitive business information, and is still confidential, pursuant to Section 366.093(3)(e). An extension of confidential classification shall therefore be granted for this information.

FPL's request for extension of confidential classification is hereby granted for another period of 18 months, starting on October 18, 2004, the day after which confidentiality would have expired.

Based on the foregoing, it is

ORDERED by Commissioner Charles M. Davidson, as Prehearing Officer, that Florida Power & Light Company's First Request for Extension of Confidential Classification Granted by

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Order No. PSC-03-0511-CFO- EI, for portions of Document Nos. 11267-02 and 11872-02 is granted as set forth in this Order. It is further

ORDERED that pursuant to Section 366.093(4), Florida Statutes, and Rule 25-22.006(9), Florida Administrative Code, any confidentiality granted to the documents specified herein shall expire 18 months from October 18, 2004, in the absence of a renewed request for confidentiality pursuant to Section 366.093. 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.

ORDERED that this docket shall be closed.

By ORDER of Commissioner Charles M. Davidson, as Prehearing Officer, this 14th day of February, 2005



CHARLES M. DAVIDSON
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

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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.