

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

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

DOCKET NO. 140001-EI  
ORDER NO. PSC-14-0120-CFO-EI  
ISSUED: March 5, 2014

ORDER GRANTING FLORIDA POWER & LIGHT COMPANY'S FIRST REQUEST FOR EXTENSION OF CONFIDENTIAL CLASSIFICATION OF INFORMATION PROVIDED IN AUDIT NO. 09-041-4-4 (DOCUMENT NO. 05834-13)

On September 30, 2013, pursuant to Section 366.093, Florida Statutes (F.S.), and Rule 25-22.006, Florida Administrative Code (F.A.C.), Florida Power & Light Company (FPL) filed its first request for extension of confidential classification (Request) of information provided pursuant to Audit No. 09-041-4-4 (Audit) (Document No. 05834-13). This Request was filed in Docket No. 130001-EI.

FPL's original request for confidential treatment of information provided during the Audit was granted by Order No. PSC-12-0169-CFO-EI, issued April 2, 2012, and included Exhibits A, B, C, and D. FPL asserts that some of the information that was the subject of Order No. PSC-12-0169-CFO-EI warrants continued treatment as proprietary and confidential business information. Accordingly, FPL has submitted the Request and included its First Revised Exhibits A, B, C, and D to reduce the number of pages for which confidential treatment is being sought. FPL identified in the First Revised Exhibits A, B, and C all of the information in the work papers that warrants continued confidential treatment. FPL has included only identifying pages in the First Revised Exhibit B where entire pages of work paper are determined by FPL to be confidential. The First Revised Exhibit C contains a table that identifies the specific pages, lines or columns that remain confidential and references the specific statutory bases for confidentiality and the affiants who support the requested classification. FPL also included First Revised Exhibit D, which contains the affidavits of Alissa E. Ballot, Antonio Maceo, Gerard J. Yupp, Damaris Rodriguez, Lisa Fuca, and Matt Pawlowski in support of its request. FPL contends that the information addressed in these exhibits continues to be proprietary confidential business information within the meaning of Section 366.093(3), F.S.

Section 366.093(1), F.S., provides that records that the Florida Public Service Commission (Commission) has found to contain proprietary confidential business information shall be kept confidential and shall be exempt from Chapter 119, F.S. Section 366.093(3), F.S., 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 that has not been voluntarily disclosed to the public. Section 366.093(3), F.S., provides in pertinent part that proprietary confidential business information includes, but is not limited to:

- (b) Internal auditing controls and reports of internal auditors.

- (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 contends that the designated portions of the information contained in its responses to the Audit fall within these categories and, thus, constitute proprietary confidential business information entitled to continued protection under Section 366.093, F.S., and Rule 25-22.006, F.A.C. FPL states that this information is intended to be and continues to be treated by FPL as private and has not been publicly disclosed.

FPL also contends that certain information provided by FPL for the Audit contains information related to internal auditing controls as well as reports of internal auditors. FPL asserts that this information is protected from public disclosure pursuant to Section 366.093(3)(b), F.S.

FPL asserts that certain documents contain information relating to security measures, systems, or procedures. FPL argues that this information is protected from public disclosure by Section 366.093(3)(c), F.S.

FPL further asserts that some documents contain information concerning bids or other contractual data as well as competitive interests, the disclosure of which would prejudice FPL and its customers, and would impair FPL's efforts to contract for goods or services on favorable terms. FPL asserts that such information is protected by Section 366.093(3)(d) and (e), F.S.

FPL avers that some documents contain information that relate to customer-specific account information. FPL further avers that it is FPL's policy not to disclose customer-specific information, except as required by law, to entities or persons other than the customer absent the customer's consent. The policy includes, but is not limited to: customer names, address, telephone numbers, account numbers, rates, billing determinants (kilowatt and kilowatt-hour usage), conservation savings in kilowatt, kilowatt-hour, and bills. FPL asserts that its policy is premised upon customers' right to privacy and the potential that disclosure of customer-specific information may harm some customers' competitive interests, and that this information is protected from public disclosure by Section 366.093(3)(e).

FPL's Request incorporates by reference and adopts the arguments propounded in its original request. FPL asserts that the period of confidential treatment of the above-numbered document is due to expire soon. FPL contends that the information deemed confidential warrants continued treatment as proprietary and confidential business information within the meaning of Section 366.093(3), F.S. FPL further asserts that the confidential information is intended to be and has been treated by FPL as private and its confidential nature has been

maintained. FPL also asserts that the disclosure of the information would cause harm to FPL and its customers. Finally, FPL contends that nothing has changed since the filing of the original requests to render the information stale or public, such that continued confidential treatment would not be appropriate.

#### Time Period For Confidential Classification

According to Section 366.093(4), F.S., confidential classification may only extend for up to 18 months from the issuance of an Order granting confidential classification unless “the Commission finds, for good cause, that the protection from disclosure shall be for a specified longer period.” FPL has not requested an extension period longer than the 18 months.

#### Ruling

Upon review, it appears the above-referenced information satisfies the criteria set forth in Section 366.093(3), F.S., for continued classification as proprietary confidential business information. The information described above appears to be “internal auditing controls and reports of internal auditors;” “security measures, systems, or procedures;” “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;” or “information relating to competitive interests, the disclosure of which would impair the competitive business of the provider of the information.” Thus, the information identified in Document No. 05834-13 shall be granted a continuation of confidential classification.

Pursuant to Section 366.093(4), F.S., 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), F.S., 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 Julie I. Brown, as Prehearing Officer, that Florida Power & Light Company’s First Request for Extension of Confidential Classification of Document No. 05834-13 is granted. It is further

ORDERED that the information in Document No. 05834-13 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 will be the only notification by the Commission to the parties concerning the expiration of the confidentiality time period.

By ORDER of Commissioner Julie I. Brown, as Prehearing Officer, this 5th day  
of March, 2014.



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Copies furnished: A copy of this document is provided to the parties of record at the time of issuance and, if applicable, interested persons.

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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 Office of Commission Clerk, in the form prescribed by Rule 25-22.0376, 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.