

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

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

DOCKET NO. 160001-EI
ORDER NO. PSC-16-0396-CFO-EI
ISSUED: September 20, 2016

ORDER GRANTING FLORIDA POWER & LIGHT COMPANY'S REQUEST FOR
CONFIDENTIAL CLASSIFICATION (DOCUMENT NO. 00491-16)

On January 27, 2016, 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 a Request for Confidential Classification (Request) of Forms 423-1(a), 423-2, 423-2(a), and 423-2(b) for October/September, November/October and December/November 2015 (Document No. 00491-16). This Request was filed in Docket No. 160001-EI.

Request for Confidential Classification

FPL contends that the information contained in Forms 423-1(a), 423-2, 423-2(a), and 423-2(b) for October/September, November/October and December/November 2015 submitted in Docket No. 160001-EI, as more specifically described in the tables in Attachment C to its Request, constitutes proprietary confidential business information entitled to protection under Section 366.093, F.S., and Rule 25-22.006, F.A.C. FPL asserts that this information is intended to be and is treated by FPL as private and has not been publicly disclosed.

FPL's justification for asserting that the information is confidential is found in more detail in Attachment C to its Request. FPL contends that part of the information involves contractual information which, if made public, "would impair the efforts of FPL to contract for goods or services on favorable terms" pursuant to Section 366.093(3)(d), F.S. FPL asserts that some of the information delineates the price per barrel FPL has paid for fuel oil for specific shipments from specific suppliers and that the information would allow suppliers to compare an individual supplier's price with the market quote for that date of delivery and thereby determine the contract pricing formula between FPL and that supplier.

FPL contends that disclosure of transportation costs "would impair the efforts of Jacksonville Electric Authority (JEA) acting on its own behalf and as agent for FPL to contract for goods or services on favorable terms" pursuant to Section 366.093(3)(d), F.S. Moreover, FPL also contends that the service provider itself typically designates the transportation costs in the contract as confidential. JEA maintains this information as confidential pursuant to Section 163.01(15)(m), F.S.

FPL argues that disclosure of the effective purchase price "would impair the efforts of JEA, acting on its own behalf and as agent for FPL, to contract for goods or services at the St. Johns River Power Park (SJRPP) on favorable terms" pursuant to Section 366.093(3)(d), F.S. The data informs other potential coal suppliers as to the price SJRPP is paying for coal. FPL

asserts that disclosure of this information, which is particularly sensitive given SJRPP's reliance on long term contracts with fixed price provisions or short term spot transactions, could adversely affect FPL's interests in subsequent solicitations for coal and/or in negotiating coal supply agreements. Further, FPL contends that JEA maintains this information as confidential pursuant to Section 163.01(15)(m), F.S.

Additionally, FPL asserts that on April 1, 2010, FPL was contacted by the BNSF Railway (BNSF) concerning FPL's disclosure of BNSF transportation rate information on FPL's Form 423 filing. BNSF has asserted that the transportation rate information is confidential pursuant to its Rail Transportation Agreement BNSF-C-12339 with Georgia Power Company (GPC) and that FPL is obligated to maintain the confidentiality of that information. FPL argues that this information is confidential under Sections 366.093(3)(d) and 366.093(3)(e), F.S., because its disclosure would "impair the efforts of GPC, as agent for FPL to contract for goods and services on favorable terms" and would "impair the competitive business of BNSF."

Ruling

Section 366.093(1), F.S., provides that records the Florida Public Service Commission (Commission) has found to contain proprietary 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 has not been voluntarily disclosed to the public. Section 366.093(3), F.S., provides that proprietary confidential business information includes, but is not limited to:

- (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.

Upon review, it appears the above-referenced information satisfies the criteria set forth in Section 366.093(3), F.S., for classification as proprietary confidential business information. The information described above and in Attachment C appended to FPL's Request appears to be "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" and "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. 00491-16 shall be granted 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 up to 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 Art Graham, as Prehearing Officer, that Florida Power & Light Company's Request for Confidential Classification of Document No. 00491-16 is granted, as set forth herein. It is further

ORDERED that the information in Document No. 00491-16 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 Art Graham, as Prehearing Officer, this 20th day of September, 2016.



ART GRAHAM
Commissioner and Prehearing Officer
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399
(850) 413-6770
www.floridapsc.com

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

WDT

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

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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.