

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

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

DOCKET NO. 090001-EI  
ORDER NO. PSC-09-0531-CFO-EI  
ISSUED: July 31, 2009

ORDER GRANTING FLORIDA POWER & LIGHT COMPANY'S REQUEST FOR  
EXTENSION OF CONFIDENTIAL CLASSIFICATION  
REGARDING DOCUMENT NO. 01902-07

This Order addresses the continuation of confidential treatment for certain information on short-term capacity payments contained in Schedule A12 of Appendix II to the pre-filed testimony of K. M. Dubin (Document No. 01902-07). By Order No. PSC-07-0549-CFO-EI, issued June 29, 2007, in Docket No. 070001-EI, confidential classification was granted for Document No. 01902-07. On December 22, 2008, Florida Power & Light Company (FPL) requested that confidential treatment be extended an additional 18 months for the information contained in Document No. 01902-07. This request was filed in Docket No. 080001-EI.

Request for Confidential Classification

Section 366.093(1), F.S., 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 Section 119.07(1) [the Public Records Act]." 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. Paragraphs (d) and (e) of Section 366.093(3) F.S., provide that proprietary confidential business information includes, but is not limited to "[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."

In its request, FPL states that the period of confidential classification granted by Order No. PSC-07-0549-CFO-EI will soon expire. FPL contends that all of the information covered by these Orders warrant continued treatment as proprietary and confidential business information within the meaning of Section 366.093, F.S.

FPL contends that portions of this information relate to supplier-specific contract pricing for short-term capacity purchases, the disclosure of which would impair the efforts of FPL or its affiliates to contract for capacity on favorable terms. FPL also argues that the information relates to the competitive interests of FPL when purchasing capacity at competitive prices. FPL states the information also relates to the competitive interests of FPL's suppliers' of capacity. The

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disclosure of this information would impair FPL's ability to acquire capacity at competitive prices and FPL's suppliers' competitive businesses would also be impaired, according to FPL.

Ruling

Upon review, it appears that portions of Schedule A12 of Appendix II to the pre-filed testimony of FPL witness K.M. Dubin, which were the subject of Order No. PSC-07-0549-CFO-EI, issued June 29, 2007, continue to be proprietary confidential business information within the meaning of Section 366.093, F.S., to the same extent confidentiality was granted by this Commission's prior order. 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" or "[i]nformation relating to competitive interests, the disclosure of which would impair the competitive business of the provider of the information." Therefore, FPL's request for extension of confidential treatment of the portions of Schedule A12 of Appendix II to the pre-filed testimony of FPL witness K.M. Dubin contained in Document No. 01902-07 is granted.

Section 366.093(4), F.S., provides that any finding by the Commission that records contain proprietary confidential business information shall be effective for a period not to exceed 18 months, absent good cause shown. Accordingly, the redacted information identified in Document No.01902-07, shall be granted confidential classification for a period of 18 months from the issuance of this Order.

Based on the foregoing, it is

ORDERED by Commissioner Katrina J. McMurrian, as Prehearing Officer, that Florida Power & Light Company's First Request for Extension of Confidential Treatment of Document No. 01902-07 is granted. It is further

ORDERED that the information in Document No. 01902-07 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 Katrina J. McMurrian, as Prehearing Officer, this 31st  
day of July, 2009.

  
KATRINA J. McMURRIAN  
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 Office of Commission Clerk, 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.