

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-14-0568-CFO-EI  
ISSUED: October 13, 2014

ORDER GRANTING FLORIDA POWER & LIGHT COMPANY'S REQUEST FOR  
CONFIDENTIAL CLASSIFICATION AND MOTION FOR TEMPORARY PROTECTIVE  
ORDER (DOCUMENT NOS. 03290-14 & 03299-14)

On June 25, 2014, 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 and a Motion for Temporary Protective Order (Request) of certain information provided in exhibits to the direct testimony of FPL witnesses Sam Forrest (SF-4, SF-5, SF-6, SF-8, and SF-9) and Dr. Tim Taylor (TT-9 and TT-10) (Document Nos. 03290-14 and 03299-14). This Request was filed in Docket No. 140001-EI.

Request for Confidential Classification

FPL contends that the information contained within exhibits SF-4, SF-5, SF-6, SF-8, SF-9, TT-9, and TT-10 to witnesses Forrest and Taylor's testimonies, submitted in Docket No. 140001-EI and more specifically described line-by-line in Exhibit C to its Request, contains proprietary confidential business information within the meaning of Section 366.093(3), F.S., and Rule 25-22.006(3)(a), F.A.C. FPL asserts that this information is intended to be and is treated by FPL as private, and its confidentiality has been maintained.

FPL contends that the information at issue concerns bids or other contractual data. FPL asserts that disclosure of this information would violate nondisclosure provisions of its contracts with certain vendors and impair the efforts of FPL or its affiliates to contract for goods or services on favorable terms. FPL also contends that the exhibits contain information related to competitive interests, the disclosure of which would impair the competitive business of FPL, its affiliates or its vendors. Specifically, the documents contain information regarding gas reserve estimates, projected economics and other terms. FPL asserts that disclosure of this information would provide other participants in the fuel and financial markets insight into FPL's hedging practices that would allow them to anticipate FPL's trading decisions and impair FPL's ability to negotiate, to the detriment of FPL and its customers. Further, FPL notes that disclosure of this information would place FPL at a competitive disadvantage when coupled with other information that is publicly available. FPL argues that such information is entitled to confidential classification pursuant to Section 366.093(3)(d) and (e), F.S.

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 that the information described above satisfies the criteria set forth in Section 366.093(3), F.S., for classification as proprietary confidential business information. The information described above and Exhibit C to FPL's Request appears to be information concerning bids or other contractual data, the disclosure of which would impair the efforts of FPL or its affiliates to contract for goods or services on favorable terms and information relating to competitive interest, the disclosure of which would impair the competitive business of the provider of information. Thus, the information identified in Document No. 03290-14 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.

#### Motion for Temporary Protective Order

FPL also seeks protection of the documents as provided in Section 366.093(2), F.S., and Rule 25-22.006(6), F.A.C., while the material is in the possession of the Office of Public Counsel (OPC). Section 366.093(2), F.S., directs that all records produced pursuant to a discovery request for which proprietary confidential status is requested shall be treated by any party subject to the public records law as confidential and exempt from the public records law, Section 119.07(1), F.S. Rule 25-22.006(6), F.A.C., codifies the Commission's policy regarding the protection of confidential information from public disclosure during the discovery process in a manner that is not overly burdensome to both parties. Rule 25-22.006(6)(a), F.A.C., in pertinent part, states:

In any formal proceeding before the Commission, any utility or other person may request a protective order protecting proprietary confidential business information from discovery. Upon a showing by a utility or other person and a finding by the

Commission that the material is entitled to protection, the Commission shall enter a protective order limiting discovery in the manner provided for in Rule 1.280, Florida Rules of Civil Procedure.

In addition, Rule 25-22.006(6)(c), F.A.C., states that if a party allows OPC to inspect or take possession of utility information, then that “utility may request a temporary protective order exempting the information from section 119.07(1), F.S.”

Upon consideration of FPL’s assertions of the confidential nature of the information contained in the exhibits to the direct testimonies of witnesses Sam Forrest and Dr. Tim Taylor, FPL’s Motion for Temporary Protective Order is hereby granted. As a result, this information shall be protected from disclosure pursuant to Rule 25-22.006(6)(c), F.A.C.

Based on the foregoing, it is hereby

ORDERED by Commissioner Julie I. Brown, as Prehearing Officer, that Florida Power & Light Company’s Request for Confidential Classification of Document No. 03290-14 is granted. It is further

ORDERED that the information in Document Nos. 03290-14, for which confidential classification has been granted, shall remain protected from disclosure for a period of up to 18 months from the date of the issuance of this Order. It is further

ORDERED that Motion for Temporary Protective Order, Document No. 03299-14, filed by Florida Power & Light Company is granted. 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 Julie I. Brown, as Prehearing Officer, this 13th day of October, 2014.



JULIE I. BROWN

Commissioner and Prehearing Officer  
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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.

KRM

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.