

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for rate increase by Florida Power & Light Company.

DOCKET NO. 160021-EI

In re: Petition for approval of 2016-2018 storm hardening plan, by Florida Power & Light Company.

DOCKET NO. 160061-EI

In re: 2016 depreciation and dismantlement study by Florida Power & Light Company.

DOCKET NO. 160062-EI

In re: Petition for limited proceeding to modify and continue incentive mechanism, by Florida Power & Light Company.

DOCKET NO. 160088-EI  
ORDER NO. PSC-16-0311-CFO-EI  
ISSUED: August 3, 2016

ORDER GRANTING FLORIDA POWER & LIGHT COMPANY'S THIRD  
REQUEST FOR CONFIDENTIAL CLASSIFICATION  
(DOCUMENT NO. 04206-16)

On July 1, 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 for its responses to: Office of Public Counsel's (OPC) Fourth Set of Interrogatories Nos. 145 (on CD) and 149 (on CD); OPC's Eleventh Set of Interrogatories Nos. 294 and 295; Florida Industrial Power Users Group's (FIPUG) Third Set of Interrogatories No. 69; Commission staff's Third Set of Interrogatories No. 114 (on CD) and Commission staff's Seventeenth Set of Interrogatories Nos. 295 and 301 (on CD).

Request for Confidential Classification

FPL contends that information contained in its responses to OPC's Fourth Set of Interrogatories Nos. 145 and 149; OPC's Eleventh Set of Interrogatories Nos. 294 and 295; FIPUG's Third Set of Interrogatories No. 69; Commission staff's Third Set of Interrogatories No. 114 and Commission staff's Seventeenth Set of Interrogatories Nos. 295 and 301, 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.

The information for which FPL seeks confidentiality consists of its responses to the following discovery requests:

A. OPC's Interrogatories

No. 145 – This document consists of actual and estimated capital spending by year from 2014 to 2018 by type of compliance with regard to FPL's nuclear operations.

No. 149 – This document contains the actual and estimated capital spending by year from 2014 to 2018 for the replacement and refurbishment of the RCP motors on FPL's nuclear units.

No. 294 – This document contains details of the \$129.4 million in costs incurred by FPL for the Okeechobee plant and deferred to a balance sheet account, as well as details regarding the \$587 million of expected costs for the engineering, procurement and construction (EPC) and component parts of the Okeechobee plant yet to be contracted.

No. 295 - This document contains costs associated with FPL's incentive mechanism transactions from 2006 until 2015

B. FIPUG's Interrogatories

No. 69 – This response contains information regarding FPL employees that earn \$165,000 or more per year.

C. Commission staff

No. 114 – This response contains information regarding sales of natural gas from FPL's fuel inventory since January 1, 2015.

No. 295 – This response contains a list of activities engaged in as an asset optimization under FPL's incentive mechanism including all types of natural gas and coal transactions and an explanation of how gains and losses on those transactions were calculated.

No. 301 – This response contains information regarding natural gas, coal, and electric transactions included in FPL's asset optimization efforts from 2010 to 2015.

FPL has requested that this information described above be granted confidentiality for a period of 18 months and returned to FPL as soon as the information is no longer necessary for the Commission to conduct its business.

Ruling

Section 366.093(1), F.S., provides that records that the 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:

- (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 above-referenced information satisfies the criteria set forth in Section 366.093(3)(b), F.S., for classification as proprietary confidential business information. The information consists of: costs associated with FPL's incentive program; actual and estimated capital spending for nuclear operations, as well as costs for nuclear replacement and refurbishment; employee compensation; Okeechobee plant EPC costs; and coal and natural gas actual and projected sales figures. Disclosure of this type of information would harm the ability of FPL to secure goods and services at the lowest price as well as potentially impair the ability of FPL to retain its current upper management employees. Thus, as discussed above, the information identified in Document No. 04206-16, 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 hereby

ORDERED by Commissioner Lisa Polak Edgar, as Prehearing Officer, that Florida Power & Light Company's Request for Confidential Classification of Document No. 04206-16, is granted, as set forth herein. It is further

ORDERED that the information in Document No. 04206-16 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 Lisa Polak Edgar, as Prehearing Officer, this 3rd day of August, 2016.



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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.