

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Nuclear cost recovery clause.

DOCKET NO. 20170009-EI
ORDER NO. PSC-2017-0304-CFO-EI
ISSUED: August 2, 2017

ORDER GRANTING FLORIDA POWER & LIGHT COMPANY'S FIRST REQUEST FOR
EXTENSION OF CONFIDENTIAL CLASSIFICATION (DOCUMENT 01215-15)

On December 13, 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 its First Request for Extension of Confidential Classification (Request) of portions of Exhibit SDS-1 (Document No. 01215-15), which was attached to the prefiled testimony of FPL witness Steven D. Scroggs. This Request was filed in Docket No. 160009-EI.

Request for Confidential Classification

FPL's original request for confidential treatment of the information contained in Exhibit SDS-1 to witness Scroggs' testimony was granted by Order No. PSC-15-0251-CFO-EI, issued June 24, 2015. FPL contends that the information contained in Exhibit SDS-1 to witness Scroggs' testimony constitutes proprietary confidential business information entitled to continued protection under Section 366.093(3), 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's Request incorporates by reference Exhibits A and B of its original request. Also included within FPL's Request is Revised Exhibit C containing the specific line, column, and page references to the confidential information and references to the specific statutory basis or bases for the claim of confidentiality and to the affidavit in support of the continued confidential classification. FPL's Request also includes Revised Exhibit D containing the declaration of Steven D. Scroggs in support of FPL's Request. FPL contends that the information contained within Exhibit SDS-1 to witness Scroggs' testimony contains information concerning bids or contractual data, the disclosure of which would violate nondisclosure provisions of FPL's contracts with certain vendors and impair FPL's ability to contract for goods or services on favorable terms in the future.

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 within Exhibit SDS-1 to witness Scroggs' testimony continues to be treated as proprietary and confidential business information within the meaning of Section 366.093(3), F.S. FPL asserts that nothing has changed since the issuance of Order No. PSC-15-0251-CFO-EI to render the information stale or public, such that continued confidential treatment would not be appropriate.

Ruling

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 FPL as private, in that disclosure of the information would cause harm to FPL'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 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 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 interests, the disclosure of which would impair the competitive business of the provider of the information. Thus, the information identified in Document No. 01215-15 shall be granted a continuation of confidential classification.

FPL states that the information will continue to be confidential beyond the next 18 months, and requests that confidential treatment be extended for a period of not less than five years. However, FPL did not provide any further support for why the information would need continuing confidential treatment beyond the 18 months provided by the statute. This does not meet the requirement provided within the statute for "good cause." Therefore, 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 Ronald A. Brisé, as Prehearing Officer, that Florida Power & Light Company's Request for Extension of Confidential Classification of Document No. 01215-15 is granted. It is further

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ORDERED that the information contained in Document No. 01215-15, for which confidential classification has been granted, shall remain protected from disclosure for a period of up to 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 Ronald A. Brisé, as Prehearing Officer, this 2nd day of August, 2017.



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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.