

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

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

DOCKET NO. 20180001-EI
ORDER NO. PSC-2018-0601-CFO-EI
ISSUED: December 21, 2018

ORDER GRANTING FLORIDA POWER & LIGHT COMPANY'S
THIRD REQUEST FOR EXTENSION OF CONFIDENTIAL CLASSIFICATION
(DOCUMENT NO. 06437-2018, X-REF. 02442-13 AND 02443-13)

On October 4, 2018, 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 Third Request for Extension of Confidential Classification of Materials Provided Pursuant to Audit No. 13-016-4-1 (Third Request) (Document No. 06437-2018).

This material was originally granted confidentiality by Order No. PSC-13-0406-CFO-EI, issued on August 30, 2013 (Document No. 02840-13, cross-referenced in Document Nos. 02442-13, 02443-13, and 03097-13). Likewise, FPL's First Request for Extension of Confidential Classification for this same material, contained in Document No. 01408-15, x-ref. 02442-13, 02443-13, and 03097-13, was granted by Order No. PSC-15-0370-CFO-EI, issued on March 12, 2015. Finally, FPL's Second Request for Extension of Confidential Classification for this material was granted by Order No. PSC-17-0126-CFO-EI, issued April 4, 2017 (Document No. 01517-17).

Request for Confidential Classification

FPL contends that the information provided pursuant to Audit No. 13-016-4-1 contains information of a confidential nature, which is proprietary confidential business information within the meaning of Section 366.093(3), F.S.

FPL contends that the information is proprietary and confidential business information within the meaning of Section 366.093(3), F.S. This information is intended to be and is treated by FPL as private, and its confidentiality has been maintained. This information includes bids and other contractual data. FPL asserts that certain information contains confidential business information concerning bids or other contractual data which would impair FPL or its vendor's efforts to enter into contracts on commercially favorable terms. FPL contends that this information is protected by Section 366.093(3)(d), F.S.

In addition, FPL contends that this information relates to competitive interests, the disclosure of which would impair the competitive business of FPL, its affiliates, or its vendors. Disclosure of this information would place FPL at a competitive disadvantage when coupled with other information that is publically available. Such information is protected pursuant to Section 366.093(3)(e), F.S.

Ruling

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

FPL has reviewed the materials classified as confidential in its Third Request to ensure that the materials warrant continued treatment as proprietary and confidential information. With regard to the materials for which confidentiality continues to be requested, nothing has changed since the previous classification of these materials as confidential in Order Nos. PSC-13-0406-CFO-EI and PSC-15-0370-CFO-EI. Upon review, it appears the above-referenced information continues to satisfy the criteria set forth in Section 366.093(3), F.S., for classification as proprietary confidential business information. The information described above appears to be information concerning contractual data and competitive interests, the disclosure of which would impair the competitive business of FPL or its affiliates or its vendors. Thus, the information identified in Document No. 06437-2018, ex ref. 02442-13 and 02443-13, shall continue to be granted confidential classification.

Pursuant to Section 366.093(4), F.S., the information for which confidential classification is granted remains protected from disclosure for a period of up to 18 months from the date of issuance of this Order unless good cause is shown to grant protection from disclosure for a longer period. Currently the Commission retains audit reports for a period of seven years at which time the audit materials are returned to FPL unless Commission staff or another affected person requests that these audit materials continue to be retained. The nature of these materials will not change in the next three years. Administrative efficiency is increased by granting confidential classification for the remaining time these audit materials will be retained by the Commission. At the conclusion of the 36-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 Gary F. Clark, as Prehearing Officer, that Florida Power & Light Company's Third Request for Extension of Confidential Classification for Document No. 06437-2018, x-ref. 02442-13 and 02443-13, is granted. It is further

ORDERED that the information in Document No. 06437-2018, x-ref. 02442-13 and 02443-13, for which confidential classification has been granted, shall remain protected from disclosure for a period of up to 36 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 Gary F. Clark, as Prehearing Officer, this 21st day of December, 2018.



GARY F. CLARK
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.

SBr

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.

ORDER NO. PSC-2018-0601-CFO-EI

DOCKET NO. 20180001-EI

PAGE 4

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.