

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Fuel And Purchased Power ) DOCKET NO. 970001-EI  
Cost Recovery Clause and ) ORDER NO. PSC-97-0732-CFO-EI  
Generating Performance Incentive ) ISSUED: June 23, 1997  
Factor. )  
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ORDER GRANTING FLORIDA POWER & LIGHT COMPANY'S REQUEST FOR  
CONFIDENTIAL TREATMENT OF ITS FEBRUARY, 1997 FORM 423  
(DOCUMENT 03992-97)

Florida Power & Light Company (FPL), pursuant to Section 366.093, Florida Statutes, and Rule 25-22.006, Florida Administrative Code, has requested specified confidential treatment of FPSC Form 423-1(a) for the month of February, 1997. The confidential information is located in Document No. 03992-97.

FPL has requested specified confidential classification of lines 1-9 of columns H, Invoice Price; I, Invoice Amount; J, Discount; K, Net Amount; L, Net Price; M, Quality Adjustment; N, Effective Purchase Price; P, Additional Transportation Charges, and Q, Other Charges, on Form 423-1(a). FPL argues that column H, Invoice Price, contains contractual information which, if made public, would impair its efforts to contract for goods or services on favorable terms pursuant to Section 366.093(3)(d), Florida Statutes. The information, FPL maintains, delineates the price that FPL has paid for No. 6 fuel oil per barrel for specific shipments from specific suppliers. This information would, therefore, allow suppliers to compare a supplier's price with the market quote in order to determine the contract pricing formula between FPL and that supplier. Such formulas are made up of a markup in the quoted market price and a transportation charge for delivery to FPL's chosen port. Disclosure of the invoice price would allow competitors to derive this formula. Competitor's with this knowledge would likely converge on a target price, thereby reducing the likelihood that FPL would be able to obtain a price concession. The result would be higher fuel prices which would be passed on to FPL's ratepayers as higher rates. FPL asserts that the material identified as confidential information is intended to be and is treated by FPL as private and has not been otherwise publicly disclosed to the best of FPL's knowledge and belief.

FPL argues that lines 1-9 of columns I, Invoice Amount; J, Discount; K, Net Amount; L, Net Price; M, Quality Adjustment; and N, Effective Purchase Price, should be classified confidential because the contract data found therein is an algebraic function of column H; the publication of these columns together, or independently, FPL argues, could allow suppliers to derive the invoice price of oil. In addition, the same lines in column J reveal the existence and amount of an early payment incentive in the form of a discount reduction in the invoice price, the

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disclosure of which would allow suppliers again to derive the invoice price of oil. Further, column M includes a pricing term, a quality adjustment applied when fuel does not meet contract requirements, which, if disclosed, would also allow a supplier to derive the invoice price. Column N reveals the existence of quality or discount adjustments and will typically, FPL contends, be identical to H. FPL further argues that lines 1-12 of columns P, Additional Charges, and Q, Other Charges, are algebraic variables of column R, Delivered Price; and would allow a supplier to calculate the Invoice or Effective Purchase Price of oil by subtracting the columnar variables in H and N from column R. They are, therefore, entitled to confidential classification. Both columns P and Q, FPL argues, are alternatively entitled to confidential classification in that they contain terminaling, transportation, and petroleum inspection service costs which, due to the small demand for them in Florida, have the same, if not more severe, oligopolistic attributes as have fuel oil suppliers. Accordingly, FPL contends, disclosure of this contract data would result in increased prices to FPL for terminaling, transportation, and petroleum inspection service costs.

FPL has requested specified confidential classification of lines 10-16 of columns H, Invoice Price; I, Invoice Amount; K, Net Amount; L, Net Price; N, Effective Purchase Price; R, Delivered Price, on Form 423-1(a). FPL argues that these columns contain contractual information which, if made public, would impair its efforts to contract for goods or services on favorable terms pursuant to Section 366.093(3)(d), Florida Statutes. The information, FPL maintains, delineates the price that FPL has paid for No. 2 fuel oil per barrel for specific shipments from specific suppliers. This information would, therefore, allow suppliers to compare a supplier's price with the market quote in order to determine the contract pricing formula between FPL and that supplier.

FPL's request for confidentiality is reasonable. Thus, the lines listed above are granted confidential treatment.

DECLASSIFICATION

FPL further requests the following proposed declassification dates which have been determined by adding six months to the last day of the contract period under which the goods or services identified were purchased:

FORM	LINE(S)	COLUMN(S)	DATE
423-1(a)	1-2	H-N	06-30-98
423-1(a)	3-5,6-9	H-N	08-31-97
423-1(a)	10-16	P	03-31-99
423-1(a)	1-9	Q	09-30-97
423-1(a)	10-16	H,I,K,L,N,R	12-31-98

Disclosure of pricing information, FPL argues, during the contract period or prior to the negotiation of a new contract is reasonably likely to impair FPL's ability to negotiate future contracts as described above.

Section 366.093(4), Florida Statutes, provides that any finding by the Commission that records contain proprietary confidential business information is effective for a period set by the Commission not to exceed 18 months, unless the Commission finds, for good cause, that protection from disclosure shall be made for a specified longer period. FPL seeks confidential classification in its request relating to February, 1997, for a period which does not exceed 24-months. FPL has shown good cause for the Commission to extend its protection of the identified confidential information. FPL's request for the declassification dates listed above is granted.

In consideration of the foregoing, it is

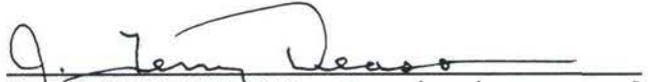
ORDERED that Florida Power & Light Company's request for confidential classification of the above specified information in Form 423-1(a) for February, 1997, the document identified as DN 03992-97 is granted, as discussed within the body of this Order. It is further

ORDERED that the proprietary confidential business information shall remain confidential for the periods of time discussed within the body 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.

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By ORDER of Commissioner J. Terry Deason, as Prehearing Officer, this 23rd day of June, 1997.

  
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J. TERRY DEASON, 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, if issued by a Prehearing Officer; (2) reconsideration within 15 days pursuant to Rule 25-22.060, Florida Administrative Code, if issued by the Commission; or (3) 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 Director, Division of Records and Reporting, 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.