

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

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

DOCKET NO. 120001-EI  
ORDER NO. PSC-12-0461-CFO-EI  
ISSUED: September 7, 2012

ORDER GRANTING FLORIDA POWER & LIGHT COMPANY'S FIRST REQUESTS FOR  
EXTENSION OF CONFIDENTIAL CLASSIFICATION OF  
DOCUMENTS NUMBERED 04284-10, AND 08625-10,

On July 10-12, 2012, 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 Requests for Extension of Confidential Classification (First Requests) of certain information submitted by FPL contained in Schedule A12, Capacity Costs for the months of April and September 2010 (Document Nos.04284-10 and 08625-10, respectively). These First Requests are filed in Docket No. 120001-EI.

Section 366.093(1), F.S., provides that "any records received by the commission which are shown and found by the commission to be proprietary confidential business information shall be kept confidential and shall be exempt from Section 119.07(1) [the Public Records Act]." 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. Paragraphs (3)(c),(d), and (e) of Section 366.093 F.S., provide that proprietary confidential business information includes, but is not limited to "[s]ecurity measures, systems, or procedures;" "[i]nformation 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;" and "[i]nformation relating to competitive interests, the disclosure of which would impair the competitive business of the provider of the information."

FPL's original request for confidential treatment of certain materials contained in its Schedules A12, Capacity Costs for the months of April and September 2010 (Document Nos. 04284-10 and 08625-10) were filed in Docket 100001-EI, (Original Requests). In support for its Original Requests, FPL stated that the information concerned contractual data, relating to the pricing for short-term capacity purchases, the disclosure of which would impair FPL's ability to contract for capacity on favorable terms. FPL argued that the information also related to competitive interests of FPL and of suppliers from whom FPL purchases capacity, the disclosure of which would impair FPL's and or FPL's suppliers' competitive businesses. FPL asserted that the information is proprietary and confidential business information within the meaning of Section 366.093(3)(c), F.S. FPL also stated that this information was intended to be and has continued to be treated by FPL as private and had not been publicly disclosed.

DOCUMENT NUMBER-DATE

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FPSC-COMMISSION CLERK

The Commission granted FPL's Original Requests by Order Nos. PSC-0049-CFO-E1, and PSC-11-0069-CFO-EI, issued on January 25, 2011 in Docket No. 110001-EI,

In its First Requests filed in the instant Docket, FPL now incorporates by reference and adopts the arguments propounded in its Original Requests. FPL asserts that the period of confidential treatment of the above numbered documents is due to expire soon. FPL states that the information deemed confidential warrants continued treatment as proprietary and confidential business information within the meaning of Section 366.093(3), F.S. FPL further asserts that the confidential information is intended to be and has been treated by FPL as private and its confidential nature has been maintained. FPL also asserts that the disclosure of the information would cause harm to FPL and its customers. Finally, FPL contends that nothing has changed since the filing of the Original Requests to render the information stale or public, such that continued confidential treatment would not be appropriate.

### **Time Period For Confidential Classification**

According to Section 366.093(4), F.S., confidential classification may only extend for 18 months from the issuance of an Order granting confidential classification unless "the Commission finds, for good cause, that the protection from disclosure shall be for a specified longer period." FPL has not requested a period longer than the 18 months for the extension of confidential treatment.

### **Ruling**

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 constitutes "[s]ecurity measures, systems, or procedures;" "[i]nformation 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;" and "[i]nformation 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 Nos. 04284-10 and 08625-10 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 an additional period of 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

ORDERED by Commissioner Eduardo E. Balbis, as Prehearing Officer, that Florida Power & Light Company's First Request for Extension of Confidential Classification of Document Nos. 04284-10 and 08625-10 is granted. It is further

ORDERED that the information in Document Nos. 04284-10 and 08625-10 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 will be the only notification by the Commission to the parties concerning the expiration of the confidentiality time period.

By ORDER of Commissioner Eduardo E. Balbis, as Prehearing Officer, this 7th day of September, 2012.



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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.

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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.