

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-12-0109-CFO-EI
ISSUED: March 13, 2012

ORDER GRANTING FLORIDA POWER & LIGHT COMPANY'S REQUEST FOR
CONFIDENTIAL CLASSIFICATION OF MATERIALS PROVIDED
PURSUANT TO AUDIT NO. 11-129-4-2
(DOCUMENT NO. 07322-11; X-REF. DOCUMENT NOS. 06727-11, 06728-11, 06729-11)

On October 6, 2011, 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 (Request) of certain information submitted by FPL pursuant to Audit Control No. 11-129-4-2 (the Audit). (Document No. 07322-11; x-ref Document Nos. 06727-11, 06728-11, and 06729-11). These Requests were filed in Docket No. 110001-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)(a),(b),(d), and (e) of Section 366.093 F.S., provide that proprietary confidential business information includes, but is not limited to "[t]rade secrets;" "[i]nternal auditing controls and reports of internal auditors;" "[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 contends that the designated portions of the information contained in its responses to the Audit, as more specifically described in the line-by-line/field-by-field justification attached as Exhibit C to the Request, fall within these categories and, thus, constitutes proprietary confidential business information entitled to protection under Section 366.093, F.S., and Rule 25-22.006, F.A.C. FPL states that this information is intended to be and is treated by FPL as private and has not been publicly disclosed.

FPL contends that certain information provided by FPL contains information related to auditing controls and reports of internal auditing controls. FPL asserts that the information also contains reports of internal auditors or information relating to internal audit reports issued in

DOCUMENT NUMBER-DATE

01454 MAR 13 2012

FPSC-COMMISSION CLERK

2010. FPL states that the information additionally contains reports of external auditors or information relating to same, which the external auditors consider to be proprietary confidential.

FPL states that some of the documents contain information concerning bids or contractual data, the disclosure of which would prejudice FPL and its customers, and would impair FPL's efforts to enter into contracts on commercially favorable terms. FPL asserts that the information provided includes oil financial instruments, fuel status and inventory reports, contractual data and negotiated agreements for serviced of FPL facilities.

FPL asserts that certain materials also contain information related to data pertinent to FPL's procurement activities and hedging program. FPL contends that the documents contain or constitute trade secrets of FPL, which allows it to hedge its fuel purchases on favorable terms for FPL and its customers. FPL argues that the disclosure of this trade secret information would provide other market participants insight into FPL's marketing and trading practices, as well as internal policy and procedure that would allow them to anticipate FPL's marking and trading decision, and impair FPL's ability to negotiate to the detriment of FPL and its customers.

FPL alleges that the documents or materials contain or constitute information regarding physical and financial details related to FPL's annual hedging program for natural gas and fuel oil. FPL alleges that the information contains the monthly realized values for FPL's hedge positions and resulting impact on the cost of natural gas and fuel oil. FPL concludes that the disclosure of this information would impair the efforts of FPL to contract for goods and services on a favorable basis to the benefit of its customers.

Finally, FPL argues that the material contains the names of financial counterparties with which FPL executes heavy fuel oil hedging transactions. According to FPL, due to the extremely limited population of potential counterparties that participate in this market, the disclosure of this data would harm the competitive business of FPL. It would also impair the efforts of the company to contract for hedging instruments on favorable terms.

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.

Ruling

Upon review, it appears the above-referenced information satisfies the criteria set forth in Section 366.093(3), F.S., for classification as proprietary confidential business information. The information constitutes "[t]rade secrets;" "[i]nternal auditing controls and reports of internal auditors;" "[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;" or "[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 No. 07322-11; x-ref Document Nos. 06727-11, 06728-11, and 06729-11 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 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.

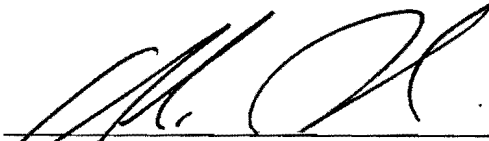
Based on the foregoing, it is

ORDERED by Commissioner Eduardo E. Balbis, as Prehearing Officer, that Florida Power & Light Company’s Request for Confidential Classification of Document No. 07322-11; x-ref Document Nos. 06727-11, 06728-11, and 06729-11 is granted. It is further

ORDERED that the information in Document No. 07322-11; x-ref Document Nos. 06727-11, 06728-11, and 06729-11 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 13th day of March, 2012.



EDUARDO E. BALBIS
Commissioner and Prehearing Officer
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399
(850) 413-6770
www.floridapsc.com

Copies furnished: A copy of this document is provided to the parties of record at the time of issuance and, if applicable, interested persons.

LCB

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.