

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Standard Offer Contract) DOCKET NO. 950110-EI
for the purchase of firm) ORDER NO. PSC-96-0220-CFO-EI
capacity and energy from a) ISSUED: February 15, 1996
qualifying facility between)
Panda-Kathleen, L.P. and Florida)
Power Corporation.)
_____)

ORDER DENYING AND GRANTING MOTIONS FOR CONFIDENTIALITY

On January 8, 1996, Panda filed a Request for Confidentiality regarding Ralph Killian's testimony, exhibits RK-3, and RK-5; and, also, Darol Lindloff's exhibit DL-5. On January 26, 1996, FPC filed a Request for Confidentiality for Ralph Killian's exhibit RK-5. This Order addresses Panda and FPC's Motions for Confidentiality.

In Panda's Motion for Confidentiality regarding Ralph Killian's testimony, exhibit RK-3, and RK-5, Panda argues that the materials constitute "proprietary confidential business information" which FPC either owns or controls and treats as private. Panda argues that the disclosure of the materials would impair FPC's business.

Panda's Motion for Confidentiality regarding Ralph Killian's testimony, exhibit RK-3, and RK-5, does not satisfy the general requirements of the definition of proprietary and confidential business information in Sections 366.093(3), and 366.039(3)(e), Florida Statutes. Section 366.093, Florida Statutes, provides that proprietary confidential business information is:

(3) Information, regardless of form or characteristic, which is owned or controlled by the person or company, is intended to be and is treated by the person or company as private in that the disclosure of the information would cause harm to the ratepayers or the person's or company's business operations, and has not been disclosed unless disclosed pursuant to a statutory provision, an order of a court or administrative body, or a private agreement that provides that the information will not be released to the public. Proprietary confidential business information includes but is not limited to:

....
(e) information relating to competitive interest, disclosure of which would impair the

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competitive business of the provider of the information.

Panda has no basis for requesting confidentiality, because the information for which Panda requests confidentiality is owned or controlled by FPC. Therefore, Panda's request for confidentiality is denied.

In Panda's Motion for Confidentiality regarding Darol Lindloff's exhibit DL-5, Panda argues that the material for which it requests confidential treatment is "proprietary confidential business information" that it owns or controls and treats as private. In addition, Panda maintains that disclosure of this information would impair its business.

The information contained in Darol Lindloff's exhibit DF-5 can be obtained from other sources that are available to the public. FPC's COG-1 Tariff contains forecasts of as-available energy prices. Therefore, Panda's request for confidentiality is denied.

In FPC's Motion for Confidentiality regarding exhibit RK-5, Cogeneration Review, FPC argues that this internal document contains proprietary confidential information with respect to Page 400189, lines 16 - 19. FPC states that the information projects the cost to FPC and its parent company for downgrades in various bond and commercial paper ratings over the next five years. FPC argues that disclosure of this information could result in an increase in the charges and fees for bonds and commercial paper. Therefore, FPC may not have the ability to negotiate and obtain favorable terms in the financial and equity markets in the future.

An examination of FPC's exhibit RK-5, Page 400189, lines 16 - 19, shows that it contains confidential information which, if released, could affect FPC's ability to contract for bonds and commercial paper on favorable terms. Therefore, the information for which confidentiality is sought is granted.


Based on the foregoing, it is therefore

ORDERED that Panda-Kathleen's, L.P./Panda Energy Corporation, Motions for Confidentiality, as discussed above, are denied. It is further

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ORDERED that Florida Power Corporation's Motion for Confidentiality, as discussed above, is granted.

By ORDER of Chairman Susan F. Clark, as Prehearing Officer, this 15th day of February, 1996.



SUSAN F. CLARK, Chairman and
Prehearing Officer

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NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.59(4), 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.

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 25-22.038(2), 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.