

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for approval of a purchase and sale agreement between Florida Power & Light Company and Calypso Energy Holdings, LLC, for the ownership of the Indiantown Cogeneration LP and related power purchase agreement.

DOCKET NO. 160154-EI
ORDER NO. PSC-16-0420-CFO-EI
ISSUED: October 3, 2016

ORDER GRANTING FLORIDA POWER & LIGHT COMPANY'S REQUEST FOR
CONFIDENTIAL CLASSIFICATION (DOCUMENT NO. 07585-16)

On September 16, 2016 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) requested confidential classification (Request) of certain information provided in response to the Florida Public Service Commission (Commission) Staff's First Request for Production of Documents (No. 3). This request was filed in Docket No. 160154-EI.

Request for Confidential Classification

FPL contends that designated portions of the information contained in the discovery responses, as more specifically identified by page, line and statutory basis in Exhibit C to its Request, constitute proprietary confidential business information entitled to protection under Section 366.093, F.S., and Rule 25-22.006, F.A.C. Specifically, the documents were provided to FPL on a confidential basis and subject to a Non-Disclosure Agreement (NDA) pursuant to FPL's due diligence on the subject transaction. The disclosure of this information would violate the terms of the NDA. As a result, FPL asserts it would disadvantage FPL customers and would place FPL at a competitive disadvantage in similar transactions. FPL affirms that the information has not been disclosed to the public and FPL has treated and continues to treat the information and contracts at issue as confidential.

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:

- (e) Information relating to competitive interests, the disclosure of which would impair the competitive business of the provider of the information.

Upon review, it appears that 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 “information 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. 07585-16 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 up to 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 Art Graham, as Prehearing Officer, that Florida Power & Light Company’s Request for Confidential Classification of Document No. 07585-16 is granted. It is further

ORDERED that the information in Document No. 07585-16 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 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 Art Graham, as Prehearing Officer, this 3rd day
of October, 2016.



ART GRAHAM
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.

WDT

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.