

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Energy conservation cost recovery  
clause.

DOCKET NO. 20200002-EG  
ORDER NO. PSC-2020-0206-CFO-EG  
ISSUED: June 24, 2020

ORDER GRANTING FLORIDA PUBLIC UTILITIES COMPANY'S  
SECOND REQUEST FOR EXTENSION OF CONFIDENTIAL CLASSIFICATION  
OF INFORMATION PROVIDED PURSUANT TO AUDIT NO. 2016-019-1-8  
(DOCUMENT NOS. 05100-2016 AND 03427-2016)

On May 6, 2020, pursuant to Section 366.093, Florida Statutes (F.S.), and Rule 25-22.006, Florida Administrative Code (F.A.C.), Florida Public Utilities Company (FPUC) filed its Second Request for Extension of Confidential Classification (Second Request) of information contained in the Staff Audit Workpapers associated with Audit Control No. 2016-019-1-8. Specifically, FPUC seeks extended confidential classification of Document Nos. 05100-2016 and 03427-2016.

Request for Confidential Classification

FPUC's original request for confidential treatment of information contained in the Staff Audit Workpapers associated with Audit Control No. 2016-019-1-8 was granted by Order No. PSC-2016-0463-CFO-EG, issued on October 14, 2016. FPUC's first request for extension confidential treatment was granted by Order No. PSC-2018-0510-CFO-EG, issued on October 22, 2018. In its Second Request, FPUC asserts that the information that was the subject of Order No. PSC-2018-0510-CFO-EG warrants continued treatment as proprietary and confidential business information entitled to protection under Section 366.093, F.S., and Rule 25-22.006, F.A.C. FPUC states that this information is intended to be and is treated by FPUC as private and has not been publicly disclosed.

FPUC contends that Document Nos. 05100-2016 and 03427-2016 contain information regarding payroll and allocations of payroll expense within FPUC and other Florida affiliates. FPUC explains that the information, if disclosed, would impair the efforts of FPUC to compete for services, as well as its ability to attract and retain qualified employees. FPUC therefore asserts the information is protected by Section 366.093(3), F.S. FPUC requests extension of confidential classification for an additional 18 months.

Ruling

Section 366.093(1), F.S., provides that records the Florida Public Service Commission (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:

- (a) Trade secrets.
- (b) Internal auditing controls and reports of internal auditors.
- (b) Security measures, systems, or procedures.
- (d) Information 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.
- (e) Information relating to competitive interests, the disclosure of which would impair the competitive business of the provider of information.
- (f) Employee personnel information unrelated to compensation, duties, qualifications, or responsibilities.

Upon review, it appears that the information, which was the subject of Order Nos. PSC-2016-0463-CFO-EG, and PSC-2018-0510-CFO-EG, continues to be proprietary confidential business information within the meaning of Section 366.093, F.S., to the same extent confidentiality was granted by the Commission's prior orders. The information contained in Document Nos. 05100-2016 and 03427-2016, qualifies as proprietary confidential business information pursuant to Sections 366.093(3)(b) through (f), since it is information relating to: internal auditing controls and reports of internal auditors; security measures, systems, or procedures; information 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; information relating to competitive interests, the disclosure of which would impair the competitive business of the provider of information, and; employee personnel information unrelated to compensation, duties, qualifications, or responsibilities. Accordingly, FPUC's Second Request for extension of confidential classification of Document Nos. 05100-2016 and 03427-2016 shall be granted. Although FPUC also asserted that this information is protected under Section 366.093(3)(a), F.S., an evaluation of that statutory provision is unnecessary as the information meets the requirements set forth in Section 366.093(3)(b), (c), (d), (e), and (f), F.S.

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 hereby

ORDERED by Commissioner Andrew Giles Fay, as Prehearing Officer, that Florida Public Utilities Company's Second Request for Extension of Confidential Classification of the information contained in Document Nos. 05100-2016 and 03427-2016 is granted. It is further

ORDERED that the information in Document Nos. 05100-2016 and 03427-2016, for which confidential classification has been granted, shall remain protected from disclosure for a period of up to 18 months from the date 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 Andrew Giles Fay, as Prehearing Officer, this 24th day of June, 2020.



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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.

AJW

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.