

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

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

DOCKET NO. 20220001-EI
ORDER NO. PSC-2022-0082-CFO-EI
ISSUED: February 21, 2022

ORDER GRANTING FLORIDA POWER & LIGHT COMPANY'S
THIRD REQUEST FOR EXTENSION OF CONFIDENTIAL
CLASSIFICATION OF MATERIALS PROVIDED PURSUANT TO
AUDIT NO. 2015-023-4-2 (DOCUMENT NO. 10079-2021, X-REF. 02580-15)

On May 21, 2015, pursuant to Section 366.093, Florida Statutes (F.S.), and Rule 25-22.006, Florida Administrative Code (F.A.C.), Florida Power and Light Company (FPL) filed a Request for Confidential Classification of certain information provided pursuant to Audit No. 15-023-4-2 (Document No. 03046-15, x-ref. 02580-15). This request for confidentiality was granted by Order No. PSC-15-0378-CFO-EI, dated September 10, 2015. On January 20, 2017, FPL filed its First Request for Extension of Confidential Classification of Materials Provided Pursuant to Audit No. 15-023-4-2. This first request for extension of confidentiality was granted by Order No. PSC-17-0046-CFO-EI, issued on February 6, 2017. FPL filed its Second Request for Extension of Confidential Classification (Request) on August 1, 2018, asking to further extend confidentiality for Audit No. 15-023-4-2. This second request was granted by Order No. PSC-2018-0452-CFO-EI, issued September 6, 2018. On September 3, 2021, FPL's filed its Third Request for Extension of Confidential Classification of Audit No. 2015-023-4-2 which contains a revised version of the original audit requesting that less information be kept confidential (Document No. 10079-2021).

Request for Confidential Classification

FPL contends that the information provided pursuant to Audit No. 15-023-4-2 contains information of a confidential nature, which is proprietary confidential business information within the meaning of Section 366.093(3), Florida Statutes.

FPL contends that the information is proprietary and confidential business information within the meaning of Section 366.093(3), F.S. This information is intended to be and is treated by FPL as private, and its confidentiality has been maintained. This information includes billing invoices, operation and maintenance data, and FPL audit requests and responses associated with the Indiantown, Wheelabrator South Broward, and Broward Resource Recovery South cogeneration plants for 2014. FPL asserts that this information is confidential business information concerning contractual data which if disclosed would impair FPL's or its vendors' efforts to enter into contracts on commercially favorable terms. FPL contends that this information is protected by Section 366.093(3)(d), F.S.

In addition, FPL contends that this information relates to competitive interests, the disclosure of which would impair the competitive business of FPL, its affiliates, or its vendors. Disclosure of this information would place FPL at a competitive disadvantage when coupled

with other information that is publically available. Such information is protected pursuant to Section 366.093(3)(e), F.S.

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:

(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 the information.

FPL argues that nothing has changed since the classification of the Audit No. 15-023-4-2 materials as confidential in 2018. Upon review, it appears the above-referenced information continues to satisfy the criteria set forth in Section 366.093(3), F.S., for classification as proprietary confidential business information. The information described above appears to be information concerning contractual data and competitive interests, the disclosure of which would impair the competitive business of FPL or its affiliates or its vendors. Thus, the information identified in Document No. 10079-2021, x-ref. 02580-15, shall continue to be granted confidential classification.

Pursuant to Section 366.093(4), F.S., the information for which confidential classification is granted herein remains protected from disclosure for a period of up to 18 months from the date of issuance of this Order unless good cause is shown for granting a longer period of confidentiality. FPL has requested that confidentiality be granted in this case for a period of 36 months from the issuance of this order. FPL reasons that the nature of this material will not change in the next 36 months and administrative efficiency is served by granting a longer time period for audits which are kept by the Commission for a period of seven years. We find that good cause has been shown by FPL for granting its requested 36 month extension. At the conclusion of the 36-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 Mike La Rosa, as Prehearing Officer, that Florida Power & Light Company's Second Request for Extension of Confidential Classification for portions of Audit No. 15-023-4-2, Document No. 10079-2021, x-ref. 02580-15, is granted. It is further

ORDERED that the information in Document No.10079-2021, x-ref., 02580-15, for which confidential classification has been granted, shall remain protected from disclosure for a period of up to 36 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 Mike La Rosa, as Prehearing Officer, this 21th day of February, 2022.



Mike La Rosa
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.

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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.

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.