

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Energy conservation cost recovery
clause.

DOCKET NO. 090002-EG
ORDER NO. PSC-09-0675-CFO-EG
ISSUED: October 9, 2009

ORDER GRANTING CONFIDENTIAL CLASSIFICATION FOR PORTIONS OF
SCHEDULE CT-6 TO EXHIBIT LMH-1 (DOCUMENT NO. 04139-09)

Pursuant to Rule 25-17.015, Florida Administrative Code (F.A.C.), a utility seeking conservation cost recovery for a conservation advertisement that “makes a specific claim of potential energy savings or states appliance efficiency ratings or savings” must include in its true-up filing “all data sources and calculations used to substantiate these claims.” Florida Power & Light Company (FPL) asserts that portions of Schedule CT-6 to Exhibit LMH-1, filed with the Commission as part of its true-up filing, contains confidential information. This information was filed with the Commission as Document No. 04139-09.

Pursuant to Section 366.093, Florida Statutes (F.S.), and Rule 25-22.006, F.A.C., FPL requests confidential classification of the redacted portions of Document No. 04139-09. FPL further requests that if Schedule CT-6 is admitted into the record in this proceeding, that FPL has shown good cause for the confidential information in Schedule CT-6 to continue to be classified as confidential for a period of 36 months.

REQUEST FOR CONFIDENTIAL CLASSIFICATION

In support of its request, FPL asserts that portions of the information in Schedule CT-6 to Exhibit LMH-1, for which it seeks confidential classification, is customer-specific information. FPL states that it has a corporate policy not to disclose or release customer-specific information without the consent of the customer, and the FPL customers that are referred to in this information have not consented to the release of their customer specific information. In addition, much of the information for which FPL seeks confidential classification is information which is confidential and proprietary to the customer, and its release would harm the customers’ business operations. FPL states that this information may, in some instances, constitute trade secrets to the customers, and is certainly information relating to the customers’ competitive interests, the disclosure of which would impair the competitive business of the customers. Moreover, none of the documentation discussed herein contains any information regarding the compensation of FPL executives. According to FPL, information of this nature is proprietary confidential business information within the meaning of Section 366.093(3)(e), F.S.

Section 366.093 (3), F.S., provides as follows:

Proprietary confidential business information means information, regardless of form or characteristics, 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

DOCUMENT NUMBER-DATE

10416 OCT-9 8

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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 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 business interests, the disclosure of which would impair the competitive business of the provider of the information. . . .

DISCUSSION OF MATERIALS CLAIMED CONFIDENTIAL

Specifically, FPL seeks confidential classification of the following portions of Schedule CT-6 to Exhibit LMH-1:

DESCRIPTION	PAGE(S)	LINE(S)	TYPE OF INFORMATION
Schedule CT-6 to Exhibit LMH-1	19-23 25-35 37-47 49-54	3	Customer-specific information

FPL asserts that each data entry found on Schedule CT-6 to Exhibit MB-1 is customer-specific information, which FPL has a policy to treat as confidential and not disclose. FPL states that the unredacted portions of this exhibit contain customer-specific incentives and energy and demand savings that are competitively sensitive to the customer. However, by redacting the customer's name, this information is protected.

Furthermore, FPL asserts that, at present, it does not intend to offer the confidential portion of Schedule CT-6 to Exhibit LMH-1 into evidence. According to FPL, it is filing these materials only to satisfy the requirements of Rule 25-17.015(4), F.A.C., and Order No. PSC-93-0472-FOF-EG. Thus, FPL requests that the Commission require the return of the confidential portion of Schedule CT-6 to FPL, if this particular document is not admitted into evidence in this proceeding.

FPL further states that the information for which it is seeking confidential classification will continue to be confidential after 18 months. FPL states that this material will be treated by FPL as confidential as a matter of policy, and the information regarding customers' electrical usage and electrical equipment will continue to be competitive information, the disclosure of which may injure the customers' competitive interests even after 18 months. Accordingly, FPL requests that the Commission rule that the information contained in Schedule CT-6 to Exhibit LMH-1 continue to be classified as confidential for a period of 36 months.

CONCLUSION

Upon review, the information for which FPL seeks confidential classification appears to be customer-specific information which could cause harm to the customer if publicly released, and, therefore, constitutes proprietary confidential business information within the meaning of Section 366.093(3)(e), F.S. The information relates to competitive interests, and public disclosure of this information could harm the owner of the information. Further, FPL has shown good cause that the information for which it seeks confidential classification will continue to be confidential after the expiration of 18 months. The customers' competitive interests, which would be damaged by the release of this information, will still exist after 18 months. Further, most of the equipment and related information about usage and efficiencies will continue to be relevant for years to come.

Therefore, FPL's request for confidential classification of Schedule CT-6 to Exhibit LMH-1 is granted. Furthermore, this information shall be classified as confidential for a period of 36 months from the date of this Order.

FPL requested that the Commission return the confidential information in Schedule CT-6 if not admitted into evidence in this proceeding. Section 366.093(4), F.S., provides that the Commission shall order the return of records containing proprietary confidential information when such records are no longer necessary for the Commission to conduct its business. Accordingly, if Schedule CT-6 to Exhibit LMH-1 is not entered into evidence in this proceeding, this document shall be returned to FPL as a matter of course.


Based on the foregoing, it is

ORDERED by Commissioner Nathan A. Skop, as Prehearing Officer, that Florida Power & Light Company's request for confidential classification of Schedule CT-6 to Exhibit LMH-1 (Document No. 04139-09) is granted. It is further

ORDERED that pursuant to Section 366.093, F.S., and Rule 25-22.006, F.A.C., that the information granted confidential classification shall remain confidential for 36 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 concerning the expiration of the confidentiality time period.

By ORDER of Commissioner Nathan A. Skop, as Prehearing Officer, this 9th day of
October, 2009.



NATHAN A. SKOP
Commissioner and Prehearing Officer

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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.