

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

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

DOCKET NO. 010001-EI
ORDER NO. PSC-01-2535-CFO-EI
ISSUED: December 28, 2001

ORDER GRANTING FLORIDA POWER & LIGHT COMPANY'S REQUEST
FOR CONFIDENTIAL CLASSIFICATION OF ITS RESPONSE TO
STAFF'S THIRD SET OF INTERROGATORIES
AND DENYING MOTION FOR PROTECTIVE ORDER
(DOCUMENT NO. 15053-01)

On November 30, 2001, Florida Power & Light Company (FPL), pursuant to Section 366.093, Florida Statutes, and Rule 25-22.006, Florida Administrative Code, filed a request for confidential classification of its responses to Staff's Third Set of Interrogatories. The information for which confidential treatment is requested is contained in Document No. 15053-01.

FPL also requests the Commission enter a protective order requiring any person wishing to review the documents to file a petition to inspect and examine the confidential information pursuant to Rule 25-22.006(7), F.A.C., and directing that the information be returned to FPL at the close of this proceeding.

Specifically, FPL requests confidential treatment for the following information found in its response to Staff's Third Set of Interrogatories: No. 148, line 12 and 13; No. 149, line 11. FPL states that the information relates to the operations of FPL's Energy Marketing and Trading Division. It describes confidential and proprietary fuel transportation pricing information, the disclosure of which would cause injury to both FPL and FPL's fuel transportation provider. The disclosure of such information, which relates to FPL's actions in highly competitive market environments, would impair the competitive business interests of FPL. Additionally, FPL asserts that the responses contain vendor-specific contract prices. FPL argues that disclosure of such information would further impair FPL's ability to contract on favorable terms in the future, and could also impair the business interests of FPL's vendors and customers.

DOCUMENT NUMBER-DATE

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FPLSC-COMMISSION OF FPL

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Upon review, it appears as if the foregoing information is proprietary confidential business 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." Section 366.093(3)(d), Florida Statutes. This information also appears to be "information relating to competitive interests, the disclosure of which would impair the competitive business of the provider of the information." Section 366.093(3)(e), Florida Statutes. Accordingly, it is granted confidential classification.

Section 366.093(4), Florida Statutes provides that any finding by the Commission that records contain proprietary confidential business information shall be effective for a period not to exceed 18 months, unless the Commission finds good cause to specify a longer period. As such, the information contained in Document No. 15053-01 shall be granted confidential classification for a period of eighteen months from the date of issuance of this Order.

FPL requests that a protective order be issued requiring persons desiring to review the information file a petition with the Commission to inspect and examine that material. Rule 25-22.006(7)(a), Florida Administrative Code, requires such a filing, so there is no need to rule on this request.

In addition, FPL asks that the Commission order the information be returned to FPL after the close of this proceeding. Section 366.093(2), Florida Statutes, sets the time frame for the return of confidential information. At the hearing in this docket, the Commission approved a stipulation to consider the issues to which this information relates in a separate generic proceeding, Docket No. 011605-EI. At the conclusion of that proceeding, this information will be treated as required by Section 366.093(2), Florida Statutes. Therefore, there is no need for a protective order dictating the return of the information.

Based on the foregoing, it is

ORDERED by Commissioner Lila A. Jaber, as Prehearing Officer, that Florida Power & Light Company's Request for Confidential Classification is granted as set forth in the body of this Order. It is further

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ORDERED that the information described within the body of this Order and contained in Document No. 15053-01 is granted confidential classification for a period of eighteen 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 declassification date of this information. It is further

ORDERED that Florida Power & Light Company's Request for Protective Order is denied as set forth in the body of this Order.

By ORDER of Commissioner Lila A. Jaber, as Prehearing Officer, this 28th day of December, 2001.


LILA A. JABER
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.

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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, 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 the Commission Clerk and Administrative Services, 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.