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State of Florida



Public Service Commission

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02 SEP 2002 AM 10:52

COMMISSION CLERK

DATE: August 29, 2002
TO: Office of General Counsel (Echternacht)
FROM: Division of Auditing and Safety (Vandiver, Freeman)
RE: Docket 020001-EI, Recommendation concerning Florida Power and Light Company's (FPL's) request for confidential classification for materials gathered during audit No. 02-056-4-2, entitled "FPL Fuel and Purchased Power Cost Recovery Clause for the Year ended December 31, 2001", documents 07735-02 and 08169-02

On July 16, 2002, when copies of certain portions of staff's working papers prepared during FPL's Fuel and Purchased power Recovery Clause Audit for the Year Ended December 31, 2001, were delivered to FPL at the audit exit conference, the utility requested that these materials be temporarily exempted from public access in accordance with the provisions of Rule 25-22.006(3)(a)(2), Florida Administrative Code (FAC).

On July 24, 2002, staff filed document 07735-02 consisting of these materials.

On August 5, 2002, the utility filed a request pursuant to Rule 25-22.006, FAC, and Section 366.093, Florida Statutes (F.S.), that certain portions of the audit working papers prepared by the staff receive a confidential classification. The utility request includes redacted copies for public inspection (Exhibit B, document 08168-02) and copies with the sensitive information highlighted (document 08169-02).

Documents 07735-02 and 08169-02 are currently held by the Division of Commission Clerk and Administrative Services in a temporary confidential classification pending resolution of FPL's request.

In accordance with Section 119.07, F.S., documents submitted to this Commission are public records. The only exceptions to this law are specific statutory exceptions and exemptions granted by governmental agencies pursuant to the specific items of a statutory provision. Subsections 366.093 (c)(d) and (e), F.S. provide the following exemptions:

- AUS _____
- CAF _____
- CMP _____
- COM _____
- CTR _____
- ECR _____
- GCL _____
- OPC _____
- MMS _____
- SEC _____
- OTH _____

up to Marguerite

DOCUMENT NUMBER-DATE

09244 SEP-3 02

FPSC-COMMISSION CLERK

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 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, and 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:....

(b) Internal auditing controls and reports of internal auditors....

(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....

According to Section 366.093 and Rule 25-22.006, FAC, the utility has the burden of demonstrating that materials qualify for confidential classification. According to Rule 25-22.006, FAC, the utility must meet this burden by demonstrating that the information is proprietary confidential business information, the disclosure of which will cause the utility, the provider of the information or the ratepayer harm.

Staff Analysis of the Request

Reading the FPL filing reveals the sensitive materials consist of:

1. Internal audit controls or reports or information relating to internal audit controls.

FPL witness Rel Del Cueto, FPL Manager, Internal Auditing, identifies material concerning reports of internal auditors and internal auditing controls.

2. Contracts and contractual data such as pricing and other terms; and

3. Vendor names and related information, payment records and contractor rates.

FPL witnesses Kirk, Green and Stepenovitch identify materials reporting sensitive contractual information which is also sensitive competitive business information. These three FPL witnesses assert release of this information would cause harm to the competitive business interests of FPL or would cause harm to the provider of the information. The witnesses also point out release of sensitive contractual information such as contractual prices would impair the ability of FPL to contract on favorable terms. Lastly, the three witnesses assert staff's working papers contain information identifying sensitive internal company procedures which are asserted to be "proprietary confidential business information" release of which "would cause harm to the ratepayers or the person's or company's business operations."

Specifically, witness Dana M. Kirk, FPL Manager of Fuels Accounting, identifies sensitive materials concerning; staff's inspection of a sample of Fuel stock inventory transactions in FERC Account 151, staff's inspection of a sample of fuel expense transactions, and a reconciliation of amounts reported upon detailed schedules reporting fuel information to a natural gas conservation report.

Witness Brenda Green, Manager of Power Accounting, identifies sensitive information concerning; the process for recording gains on no broker sales, a certain invoice, and the "lambda report."

Witness Joseph P. Stepenovitch, FPL Director of the Energy Marketing and Trading Division, identifies sensitive "deal tickets".

FPL witness Osvaldo J. Lom, FPL Supervisor of Purchase Power Contracts, identifies material within the filing which reports sensitive contractual material which also reveals sensitive competitive business information.

Specifically, witness Lom identifies sensitive information concerning; a worksheet reporting UPS energy transactions, certain invoices, certain daily energy payment schedules, a daily energy payment summary and a billing statement.

FPL asserts all material marked as sensitive within this filing is private and has not been disclosed.

Length of the Classification Period

FPL requests this information be returned once it is no longer needed for Commission business.

Audit reports and related audit working papers of this nature are retained by the Commission for 25 years. Section 366.093(4), F.S., limits the length of any confidential classification to 18 months, unless cause is shown for allowing a longer period of protection. Since cause has not been shown for a longer period of protection within this filing, we recommend any confidential classification should be limited to 18 months. If the utility finds additional protection is needed, an extension may be filed before any granted protection period tolls.

STAFF RECOMMENDATION

Staff's reading of the sensitive material reveals it is sensitive material regarding reports of internal auditors, internal auditing controls, contracts, security measures, competitive business information, or sensitive internal company procedures release of which could cause harm. We therefore recommend the utility's request for confidential classification be granted for 18 months. A detailed recommendation is provided below:

Detailed Staff Recommendation (As Found)

Staff Work Paper	Page(s)	Lines(s)	Recommend	Type of Information Classified Confidential
Documents 07735-02 and 08169-02				
9	1-10	All	Grant	Internal auditing reports and controls
9-1	1	Col C, 1-51	Grant	Internal auditing reports and controls
9-1	2	Col C, 52-99	Grant	Internal auditing reports and controls
9-1	3	Col C, 1-5	Grant	Internal auditing reports and controls
9-1	4	Col C, 1-23	Grant	Internal auditing reports and controls
43-4/1-1	2	Col D, 4,7	Grant	Sensitive contractual and competitive business information
43-4/1-1	3	Col D, 6	Grant	Sensitive contractual and competitive business information

Staff Work Paper	Page(s)	Lines(s)	Recommend	Type of Information Classified Confidential
Documents 07735-02 and 08169-02				
43-6	3	Col C, 3,10,22	Grant	Sensitive contractual and competitive business information
43-6	4	Col C, 1,9,32	Grant	Sensitive contractual and competitive business information
43-6	5	Col C, 2,4,7,11,13,20	Grant	Sensitive contractual and competitive business information
43-6	6	Col C, 18,23,40	Grant	Sensitive contractual and competitive business information
45-1/1-1	1	All	Grant	Sensitive contractual and competitive business information
45-1/1-1/1	1	All	Grant	Sensitive contractual and competitive business information
45-1/1-2	1	Col A-C, 14-36 Col A-B, 39-47	Grant	Sensitive contractual and competitive business information
46-1	1	Col A, 6-29,32-34	Grant	Sensitive contractual and competitive business information
47-1/1-1	1	2,3; Col A-C, 4-35; 36-38	Grant	Sensitive contractual and competitive business information
47-1/1-3	1	2-4; Col A-C, 5-36; Col D, 36-39; 38-40	Grant	Sensitive contractual and competitive business information

Staff Work Paper	Page(s)	Lines(s)	Recommend	Type of Information Classified Confidential
Documents 07735-02 and 08169-02				
47-2/1	1	2,3; Col A-C, 4-33; Col B-C; 34-35; 36-38	Grant	Sensitive contractual and competitive business information
47-2/2	1	5; Col A-C, 8-9; Col A,C, 10-12;	Grant	Sensitive contractual and competitive business information
47-2/2-1	1	2-3; Col A-C, 4-37; 38-40	Grant	Sensitive contractual and competitive business information
47-2/3	1	2-3; Col A-D; 4-37; 38-40	Grant	Sensitive contractual and competitive business information
49C	1-3	All	Grant	Sensitive contractual and competitive business information
49-1/1-1	1	2,4; Col A-B, 5; Col B, 9; 10-13,16A,17-21,23; Col A,C-D, 25-30; Col D, 31	Grant	Sensitive contractual and competitive business information
49-1/2	1	Col B-J, 3-6;	Grant	Sensitive contractual and competitive business information

Staff Work Paper	Page(s)	Lines(s)	Recommend	Type of Information Classified Confidential
Documents 07735-02 and 08169-02				
49-1/2	2	Col B-N, 5-10	Grant	Sensitive contractual and competitive business information
49-1/2-1	1	4,6,8,9-20A; Col B-E, 8-23; 24-26,28,30;	Grant	Sensitive contractual and competitive business information
49-1/2-1	2	4,8-20A; Col B-E,8-23; 24-27A,30;	Grant	Sensitive contractual and competitive business information
49-1/2-1	3	Col A-E, 2-30	Grant	Sensitive contractual and competitive business information
49-1/2-1	4	Col A-E, 2-33: Col I, 4,9,13,15,17, 19,21;	Grant	Sensitive contractual and competitive business information
49-1/2-1	5	Col A-E, 2-35; Col G-H, 7,11,18,24, 28,32;	Grant	Sensitive contractual and competitive business information
49-1/2-1	6	Col A-E, 2-33; Col H-I, 11,20,22,23, 25,26	Grant	Sensitive contractual and competitive business information
49-1/2-1	7	Col A-E, 2-35; Col H, 17,19-21,23, 32,34; Col I, 19-21,23-26, 32-35;	Grant	Sensitive contractual and competitive business information

Staff Work Paper	Page(s)	Lines(s)	Recommend	Type of Information Classified Confidential
Documents 07735-02 and 08169-02				
49-1/2-1	8	Col A-E, 2-35; Col H, 8,13,20,27,32; Col I, 17-19,21,23-25	Grant	Sensitive contractual and competitive business information

A temporary copy of this recommendation will be held at I:08169-02.raf for a short time.

CC: Bureau of Records and Hearing Services (Flynn)
Bureau of Auditing and Safety (Welch)