

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Environmental Cost) DOCKET NO. 960007-EI
Recovery Clause.) ORDER NO. PSC-96-1450-CFO-EI
_____) ISSUED: December 2, 1996

ORDER REGARDING FLORIDA POWER & LIGHT COMPANY'S REQUEST FOR
CONFIDENTIAL TREATMENT OF AUDIT WORKPAPERS

Pursuant to Rule 25-22.006, Florida Administrative Code, Florida Power & Light Company (FPL) has requested specified confidential treatment of portions of the audit workpapers pertaining to the Commission Staff's Audit of FPL's Environmental Cost Recovery Clause filing covering the period April 1, 1995, through March 31, 1996, (Document Nos. 06960-96 and 07338-96).

Florida law presumes that documents submitted to governmental agencies shall be public records. The only exceptions to this presumption are the specific statutory exemptions provided in the law and exemptions granted by governmental agencies pursuant to the specific terms of a statutory provision. This presumption is based on the concept that government should operate in the "sunshine." It is the company's burden to demonstrate that the documents fall into one of the statutory examples set out in Section 366.093, Florida Statutes, or to demonstrate that the information is proprietary confidential information, the disclosure of which will cause the Company or its ratepayers harm.

Section 366.093(3)(b), Florida Statutes, specifies that information found in internal auditing controls and in reports of internal auditors may be given confidential treatment. In addition, Section 366.093 (3)(d), Florida Statutes, identifies as confidential information "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."

In order to establish that material is proprietary confidential business information under Section 366.093(3)(d), Florida Statutes, a utility must demonstrate (1) that the information is contractual data, and (2) that the disclosure of the data would impair the efforts of the utility to contract for goods or services on favorable terms. The Commission has previously recognized that this latter requirement does not necessitate the showing of actual impairment, or the more demanding standard of actual adverse results; instead, it must simply be shown that

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disclosure is "reasonably likely" to impair the utility's ability to contract for goods or services on favorable terms.

FPL has requested confidential treatment of notes taken from internal audits. FPL argues that this information has not been publicly disclosed, and only a select few FPL employees have seen these documents. FPL asserts that all of the material and the corresponding workpapers were extracted from an internal audit.

FPL seeks an 18 month confidentiality period and requests that all confidential material be returned to FPL when the Commission no longer needs the information to conduct its business, in accordance with Section 366.093(4), Florida Statutes and Rule 25-22.006(8)(b), Florida Administrative Code.

Upon consideration, it is found that FPL's request for confidential treatment of Document Nos. 06960-96 and 07338-96 is reasonable and is, therefore, approved. In Order Nos. PSC-94-0954-CFO-EI and PSC-93-1931-CFO-EI, issued on August 8, 1994 and November 8, 1993, respectively, the Commission granted confidential classification to similar material. In addition, these documents shall be protected from disclosure for 18 months as requested by the Company and as provided by Rule 25-22.006(8)(a), Florida Administrative Code.

Document 06960-96 represents copies of existing staff work papers filed by the utility in explanation of its filing. This document shall be returned to FPL after the assigned confidentiality period has expired. Document No. 07338-96, however, presents the original Commission staff audit workpapers. These documents shall be retained in accordance with the regular retention of staff audit workpapers. These papers record work performed, record staff observations during fieldwork, and form the basis for subsequent staff audits. Should FPL desire continued confidential treatment of the original workpapers, it must request an extension of the period before the conclusion of the period assigned herein.

The specific audit workpaper numbers and lines relating to the documents that FPL has requested confidential treatment, along with my findings, are listed in the table which follows:

Staff Work Paper	Page	Lines	Findings	Duration	Reason
Material found in documents 06960-96 and 07338-96					
9	1	6-29	Granted	18 months	Contains information taken directly from internal audits
9	2	1-14	Granted	18 months	Contains information taken directly from internal audits
9	2	22-27	Granted	18 months	Contains information taken directly from internal audits
9	3	1-28	Granted	18 months	Contains information taken directly from internal audits

Staff Work Paper	Page	Lines	Findings	Duration	Reason
9	4	1-27	Granted	18 months	Contains information taken directly from internal audits
9	5	1-10	Granted	18 months	Contains information taken directly from internal audits
9	7	1-34	Granted	18 months	Contains information taken directly from internal audits

Based on the foregoing, it is therefore

ORDERED that Florida Power & Light Company's request for confidential treatment of Document Numbers 06960-96 and 07338-96 is granted as set forth in the body of this Order. It is further

ORDERED that this information shall remain confidential for the periods of time set forth within the body of this Order. It is further

ORDERED that if any information contained herein has been granted confidential treatment by previous Orders, that information shall be declassified on the date specified by the respective Order in which confidential treatment was originally granted. It is further

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ORDERED that this Order will be the only notification by the Commission to the parties concerning the expiration of the confidentiality time period.

By ORDER of Commissioner J. Terry Deason, as Prehearing Officer, this 2nd day of December, 1996.



J. TERRY DEASON, Commissioner and
Prehearing Officer

(S E A L)

VDJ

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.59(4), 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.

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 25-22.038(2), 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 Records and Reporting, in the form prescribed by Rule 25-22.060, Florida Administrative Code. Judicial review of a preliminary,

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