



VIA AIRBORNE EXPRESS

July 11, 1996

Ms. Blanca S. Bayó
Division of Records and Reporting
Florida Public Service Commission
Betty Easley Conference Center
Room 110
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850

RECEIVED
DIVISION OF RECORDS AND REPORTING
JUL 12 11:11 AM '96

Re: **Florida Power & Light Company's Request
for Confidential Classification --
Environmental Cost Recovery
Clause, Docket No. 960007-EI**

Dear Ms. Bayó:

Enclosed please find an original and fifteen copies of FPL's "Request for Confidential Classification" regarding certain materials obtained by the Commission Staff during its audit of FPL's environmental cost recovery clause for the twelve months ended March 31, 1996. This filing is being made by FPL pursuant to Rule 25-22.006, F.A.C.

Please note that only the original filing contains Attachment A. Attachment A contains confidential information and has been placed in a sealed envelope marked "Confidential" and, therefore, should be handled as confidential information in accordance with Rule 25-22.006, F.A.C. The other fifteen copies do not include Attachment A and thus do not require special handling.

Please also note that, due to the size of the Staff's workpapers submitted herewith, FPL is unable to comply with the size-of-paper specification of Rule 25-22.009(1), F.A.C.

An additional copy of this transmittal letter is also enclosed, which I would appreciate having date-stamped as "filed" and returned to me in the accompanying, postage-paid envelope. If you have any questions regarding this filing, please call me at (305) 552-3924.

Very truly yours,

David L. Smith
Senior Attorney

DLS:plm

Enclosures

an FPL Group company

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FPSC-RECORDS/REPORTING

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

Environmental Cost)
Recovery Clause)

Docket No. 960007-EI

REQUEST FOR CONFIDENTIAL CLASSIFICATION

Pursuant to Rule 25-22.006, F.A.C., and §366.093, F.S. (1995), Florida Power & Light Company ("FPL") hereby files with the Florida Public Service Commission ("Commission") this "Request for Confidential Classification" ("Request") of certain materials compiled by the Commission Staff as part of its recent environment cost recovery audit of FPL. In support of this Request, FPL states as follows:

1. This filing is being made on behalf of FPL, whose principal place of business is 9250 West Flagler Street, Miami, Florida 33174.

2. Service in this docket is to be made, and communications in this proceeding should be addressed, to the following individuals:

William G. Walker, III
Vice President
Florida Power & Light Company
9250 West Flagler Street
Miami, Florida 33174
(305) 552-4981

David L. Smith
Law Department
Florida Power & Light Company
9250 West Flagler Street, #6514
Miami, Florida 33174
(305) 552-3924

3. The Staff has completed its environmental cost recovery clause audit of FPL's records covering the twelve months ended March 31, 1996. During the audit, the

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FPSC-RECORDS/REPORTING

Staff requested access to confidential information relating to FPL internal environmental audits and audit processes. FPL seeks confidential treatment of Staff's workpapers derived from these documents. The internal audit materials of FPL are intended to be and are treated by FPL as confidential; they have not been publicly disclosed; and they have been circulated internally at FPL to only a select few employees of FPL on a "need to know" basis.

4. The environmental cost recovery audit was completed on June 26, 1996; no audit exit conference was held. Under Rule 25-22.006(3)(a)2, F.A.C., FPL thus has 21 days, or until July 17, 1996, to file a request regarding the environmental cost recovery audit "[t]o maintain continued confidential handling of the material. . ."

5. Appended to this Request and incorporated herein by reference are the following documents:

- | | |
|--------------|---|
| Attachment A | A highlighted copy of the Commission Staff's notes from the environmental cost recovery clause audit, related to FPL internal environmental audits and audit processes. |
| Attachment B | A redacted copy of Attachment A on which the highlighted internal audit information has been masked. |
| Attachment C | A line-by-line justification matrix for treating Attachment A confidential and providing for a declassification date. |

6. FPL seeks confidential classification of the Commission Staff's notes related to the conduct and processes of FPL's internal environmental audits (which are identified and highlighted on Attachment A) pursuant to §366.093(3)(b), F.S. (1995), which provides

that "[i]nternal auditing controls and reports of internal auditors" are considered proprietary confidential business information. The Staff's notes would impart to a viewer of them much of the same sensitive information as a review of FPL's internal environmental audits themselves. The Commission has previously afforded confidential treatment to similar Staff notes derived from FPL internal audit reports:

The material in Attachment A was obtained from FPL in response to Commission Staff's document request. The work papers were compiled by Commission Staff from reports of FPL's internal auditors and the auditors' supporting work papers. The information in Attachment A is intended to be and is treated by FPL as confidential, ...this information has not been publicly disclosed, and... it has been circulated to a select few FPL employees on a need to know basis only. All of the material in Attachment A and the corresponding work papers [were] extracted from an internal audit, and accordingly, [satisfy] the definition of proprietary confidential information, pursuant to Section 366.093(3)(b), Florida Statutes, therefore, confidential status is granted.

94 FPSC 8:64, 65. See Also 93 FPSC 11:119, 120.

7. FPL requests that the internal environmental audit information (Attachment A) not be declassified for a period of at least eighteen months. This confidential material should be returned to FPL when the Commission no longer needs the information to conduct its business, in accordance with §366.093(4), F.S. (1995), and Rule 25-22.006(9)(b), F.A.C. If such material is not so returned to FPL within eighteen months, FPL will seek from the Commission, pursuant to Rule 25-22.006(9)(c), F.A.C., an extension of the period of confidential classification and treatment for Attachment A.

WHEREFORE, FPL respectfully requests the Commission to find that the material identified in Attachment A is proprietary confidential business information pursuant to §366.093, F.S. (1995), and to classify the material as confidential information in accordance with Rule 25-22.006, F.A.C.

Respectfully submitted,


A handwritten signature in cursive script, appearing to read "David L. Smith", is written over a horizontal line.

David L. Smith, Esq.
Florida Power & Light Company
9250 West Flagler Street, #6514
Miami, Florida 33174
(305) 552-3924
Florida Bar No. 0473499

Dated: July 11, 1996

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of Florida Power & Light Company's "Request for Confidential Classification" of certain Commission Staff notes compiled by the Staff as part of its recent environmental cost recovery clause audit of FPL, without Attachment A, was provided by first class mail service to Gabriela Leon at the Florida Public Service Commission, Miami District Office, Suite 400, 3625 N.W. 82nd Avenue, Miami, Florida 33166-7602, on this the 11th day of July, 1996.



David L. Smith

ATTACHMENT B

F P L

W
6/11/96

Review of Internal Audits

TYE 3/96

FL
6/8/96

ENVIRONMENTAL Auditing Process 1993 - 3/95

SUBJECT: ENVIRONMENTAL AUDITING PROGRAM

9.01

I. Regulatory

Federal: No federal reg. agencies require environmental audits (Guidance) concerning effective environmental auditing programs has been issued by the EPA, Dept. of Justice (DOJ) and in draft form, by the U.S. Sentencing Commission (USSC).

State:

The state of Fla. has not enacted any laws mandating environmental audits, or issued any guidance regarding elements of an effective environmental auditing program.

Monday, 4/3/95

Source: EPA Voluntary Policy - Daily Env. Rep.

EPA Policy offers NO ENVIRONMENTAL Audit Privilege.

EPA will not treat corp. env. audits as privilege bus. info. the agency announces in its new enforcement policy on audits. Under the new intern. policy, touted by EPA as a regulatory reform initiative, the agency in some cases will not seek criminal prosecution if a co. voluntarily corrects + reports a violation. In addition, ~~the~~ the agency in some cases, will not ~~add~~ ^{assess} ~~penalties~~ ^{penalties} ~~damages~~ ^{penalties} for violation ~~if~~ ^{if} the standard ~~is~~ ^{is} remedied & reported to the proper authorities.

ECRC cost rec. factors applied to cost. are being calculated properly.

Controls are adequate to ensure that all ECRC recoverable costs have properly identified & charged to the fund.

The process of reporting projected ECRC costs for approval by the PSC is adequate to ensure accurate reporting.

ATTACHMENT C

**Justification for Confidentiality of
Staff's Workpapers (Attachment A):**

STAFF'S WORKPAPER DESIGNATION	PAGE	LINE(S)	JUSTIFICATION FOR CONFIDENTIALITY	DATE OF DECLASSIFICATION
9	1	6-29	(A)	(B)
9	2	1-14	(A)	(B)
9	2	22-27	(A)	(B)
9	3	1-28	(A)	(B)
9	4	1-27	(A)	(B)
9	5	1-10	(A)	(B)
9	7	1-34	(A)	(B)

(A) JUSTIFICATION FOR CONFIDENTIALITY: The Commission Staff's workpapers consist of notes derived from FPL's internal environmental audits and audits processes (Attachment A). Section 366.093(3)(b), F.S. (1995), provides that "[i]nternal auditing controls and reports of internal auditors" are considered proprietary confidential business information. The Commission has previously (see, for example, 94 FPSC 8:64, 65, and 93 FPSC 11:119, 120) afforded confidential treatment to notes and memos derived from FPL internal audit reports as satisfying the statutory definition of proprietary confidential business information.

(B) DATE OF DECLASSIFICATION: The internal environmental audit information (Attachment A) should not be declassified for a period of at least eighteen months. Critical self-analyses fostered by the confidential nature of internal audits would be stifled by disclosure of such audits', their underlying processes and related information. The Commission should return such information (Attachment A) to FPL if at all possible before the end of the eighteen-month period; if not, FPL will, at that time, seek an extension of confidential treatment and classification of Attachment A.