



Public Service Commission

-M-E-M-O-R-A-N-D-U-M-

DATE: September 26, 2001
TO: Division of Legal Services (Elias)
FROM: Division of Regulatory Oversight (Freeman, Vandiver)
RE: Docket 010002-EG, Recommendation concerning Florida Power & Light Company's (FPL's) request for extension of the confidential classification granted for a portion of the staff's working papers obtained or prepared during the audit numbered 98-173-4-1, FPL Energy Conservation Cost Recovery (ECCR) Audit for the 6 months ended March 31, 1998, Documents Numbered 11948-98 and 12622-98

On October 20, 1998, when copies of certain portions of staff's working papers obtained or prepared during the FPL energy conservation cost recovery audit for the year ended March 31, 1998, were delivered to FPL at the audit exit conference, the utility requested that these materials be temporary excepted from public access in accordance with the provisions of Rule 25-22.006(3)(a)(2), Florida Administrative Code (FAC). On October 26, 1998, staff filed document 11948-98 consisting of those specified portions of the staff working papers.

On November 10, 1998, the utility filed a request pursuant to Rule 25-22.006, FAC, and Section 366.093, Florida Statutes (F.S.), that selected portions of the working papers prepared by staff during the audit receive confidential classification. The utility's request included redacted copies for public inspection (document 12621-98) and highlighted copies (document 12622-98).

Commission Order PSC-00-0194-CFO-EG, dated January 26, 2000, granted confidential protection for the indicated portions of documents 11948-98 and 12622-98 for 18 months or until July 26, 2001. This Commission Order, on page 6, recognizes that FPL may petition for continued protection of these documents at the expiration of the confidential period, if appropriate.

On July 20, 2001, FPL requested an extension of confidential classification for those identified portions of Commission documents 11948-98 and 12622-98. The Division of Commission Clerk and Administrative Services is holding this material as confidential pending resolution of FPL's request for extension.

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DOCUMENT NUMBER-DATE

12385 OCT-15

FPSC-COMMISSION CLERK

Pursuant to Section 119.07, F.S., documents submitted to this Commission are public records. The only exceptions to this law are specific statutory exemptions and exemptions granted by governmental agencies pursuant to the specific items of a statutory provision. Subsection 366.093(3)(d) provides the following exemptions:

"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, 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:....

(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 and 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, F.S., 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 FPL's filing to include exhibits A,B, and C specifically included from the utility's November 10, 1998 original filing as well as Commission Order PSC 00-0194-CFO-EG reveal the sensitive material consists of:

1. Information concerning bids or other contractual data which pertains to certain vendors.

Order PSC-00-0194-CFO-EG granted a confidential classification to this material on the basis that if the "...information were disclosed, vendors could refuse to contract further with FPL or its affiliates, or converge on a specific price set by a specific vendor, thus impairing the efforts of FPL to contract for goods or services on favorable terms."

Susan K. Gampfer, FPL Director, Information Management Performance, reaffirms her previously-filed affidavit in this case and identifies these sensitive contractual materials. She testifies that FPL has maintained the confidentiality of these materials. FPL pleads that nothing has changed regarding this material which would render it either stale or public.

2. Information concerning specific account information concerning non governmental customers; and

Long-standing Commission policy has allowed non governmental customer-specific information to be granted a confidential classification (See Order 22851, dated April 23, 1990, Order 96-1478, dated December 4, 1996; Order 98-0421, dated March 24, 1998, and Order 00-1569, dated August 31, 2000). Specifically PSC order 00-0194-CFO-EG previously granted a confidential classification on the basis that a specific customer names are associated with usage or account information.

Dennis Brandt, FPL Director, Product Development and Management, reaffirms his 1998 affidavit and identifies the sensitive customer information. In the pleading, FPL reports this information is not stale or public and thus continues to qualify as proprietary confidential business information.

Commission order PSC-00-0194 characterizes the information as: "...customer specific information relating to customer accounts for non governmental customers. FPL asserts that this information also contains information concerning bids or other contractual data. This information is granted confidential classification in this instance because specific customer names are associated with specific usage information and account numbers...."

3. Employee social security numbers

FPL requests extended protection for FPL employee social security numbers obtained by the staff. This information concerning social security numbers is no longer needed to support the audit. On September 26, 2001, the Division of Regulatory Oversight requested that the Division of the Commission Clerk and Administrative Services return employee social security information reported upon the following working papers to the utility:

WP 43-9/1 (2 pages);	WP 43-9/7 (2 pages);	WP 43-9/13 (2 pages);
WP 43-9/2 (2 pages);	WP 43-9/8 (2 pages);	WP 43-9/14 (2 pages);
WP 43-9/3 (2 pages);	WP 43-9/9 (2 pages);	WP 43-9/15 (2 pages);
WP 43-9/4 (2 pages);	WP 43-9/10 (2 pages);	WP 43-9/16 (2 pages);
WP 43-9/5 (2 pages);	WP 43-9/11 (2 pages);	WP 43-9/17 (2 pages);
WP 43-9/6 (2 pages);	WP 43-9/12 (2 pages);	WP 43-9/18 (2 pages).

Because this material will be sent back to the utility, a confidential classification is no longer needed for these materials.

Duration of the Confidential Classification Period

FPL requests that the material be granted confidential classification for at least 18 additional months. FPL goes on to request that this material be returned to the utility once this information is no longer needed for the Commission to conduct its business. However we note the staff audit reports and the related working papers for this type of audit are retained on file by the Commission for 25 years.

According to the provisions of Section 366.093(4), F.S., absent good cause shown, confidential classification is limited to 18 months. Without cause shown for a longer period, we recommend that the extension of the classification period be limited to 18 months. As deemed necessary, the utility may request another extension of the confidential classification before this extension tolls.

Staff Recommendation

For the reasons presented above, we recommend the utility's request be granted and that the identified material be granted a confidential classification for an additional 18 months.

A detailed recommendation regarding the material follows:

Detailed Recommendation

Staff Work Paper Number	Page(s)	Line(s)	Recommend	Type of Information Classified Confidential
Documents 11948-98 and 12622-98				
16-2/1-2/2	1	Col C, 1-21	Grant	Customer account and usage information
36 working papers of the 43-9 series which contain FPL employee social security numbers will be returned to the utility. Retention of this information is no longer necessary to conduct Commission business.				
43-11	1	Col A, 7-10,12-14, 18-21,23-32,35-45, 47-49; Col AA, 3-6,8-10, 18-20,47-49; Col B, 3,36-45,45-49; Col C, 36-45,47-50; Col D	Grant	Contractual Information
43-11	2	Col A, 56-63,66,69, 73,76-81,83-85,87,88; Col AA, 56-63,66, 77-81,83,87-88; Col B, 50-55,86,89-96; Col C, 73	Grant	Contractual Information

Staff Work Paper Number	Page(s)	Line(s)	Recommend	Type of Information Classified Confidential
Documents 11948-98 and 12622-98				
43-11	3	Col A&B, 101,102, 104-110	Grant	Contractual Information
43-15	1	Col A&B, 1-10,15-16, 18-24	Grant	Contractual Information
44-1/1-1/3	1	1-19	Grant	Customer account and usage information
44-1/1-1/3	2	1-21	Grant	Customer account and usage information
44-1/1-1/3	3	1-19	Grant	Customer account and usage information
44-1/1-1/3	4	1-24	Grant	Customer account and usage information
44-1/1-1/3	5	1-22	Grant	Customer account and usage information
44-1/1-1/3	6	1-20	Grant	Customer account and usage information
44-1/1-1/3	7	1-20	Grant	Customer account and usage information
44-1/1-1/3	8	1-25	Grant	Customer account and usage information
44-1/1-1/3	9	1-22	Grant	Customer account and usage information
44-1/1-1/3	10	1-22	Grant	Customer account and usage information
44-1/1-1/3	11	1-20	Grant	Customer account and usage information
44-1/1-1/3	12	1-20	Grant	Customer account and usage information
44-1/1-1/3	13	1-22	Grant	Customer account and usage information

Staff Work Paper Number	Page(s)	Line(s)	Recommend	Type of Information Classified Confidential
Documents 11948-98 and 12622-98				
44-1/1-1/3	14	1-23	Grant	Customer account and usage information
44-1/1-1/3	15	1-22	Grant	Customer account and usage information
44-1/1-1/3	16	1-18	Grant	Customer account and usage information
44-1/1-1/3	17	1-18	Grant	Customer account and usage information
44-1/1-1/3	18	1-18	Grant	Customer account and usage information
44-1/1-1/3	19	1-20	Grant	Customer account and usage information
44-1/1-1/3	20	1-24	Grant	Customer account and usage information
44-1/1-1/3	21	1-25	Grant	Customer account and usage information
44-1/1-1/3	22	1-22	Grant	Customer account and usage information
44-1/1-1/3	23	1-20	Grant	Customer account and usage information
44-1/1-1/3	24	1-21	Grant	Customer account and usage information
44-1/1-1/3	25	1-26	Grant	Customer account and usage information
44-1/1-1/3	26	1-27	Grant	Customer account and usage information
44-1/1-1/3	27	1-27	Grant	Customer account and usage information
44-1/1-1/3	28	1-30	Grant	Customer account and usage information.

Staff Work Paper Number	Page(s)	Line(s)	Recommend	Type of Information Classified Confidential
Documents 11948-98 and 12622-98				
44-1/1-1/3	29	1-30	Grant	Customer account and usage information
44-1/1-1/3	30	1-28	Grant	Customer account and usage information
44-1/1-1/3	31	1-24	Grant	Customer account and usage information
44-1/1-1/3	32	1-26	Grant	Customer account and usage information
44-1/1-1/3	33	1-26	Grant	Customer account and usage information
44-1/1-1/3	34	1-10	Grant	Customer account and usage information

A temporary copy of this recommendation will be held at I:12622-01.RAF for a short period.

CC: Division of Regulatory Oversight (Welch)
 Division of Commission Clerk and Administrative Services (Flynn)