



Public Service Commission ORIGINAL
-M-E-M-O-R-A-N-D-U-M-

DATE: January 28, 2003
TO: Office of General Counsel (Echternacht)
FROM: Division of Auditing and Safety (Freeman, Vandiver) *W JVA*
RE: Docket 030001-EI, Fuel and Purchased Power Recovery Clause, Recommendation concerning Florida Power & Light Company's (FPL's) request for extension of confidential classification granted by Order PSC-01-0708-CFO-EI, concerning certain staff work papers obtained during "FPL Fuel Cost Recovery Audit for the 9 months ended December 31, 1999", Audit No. 99-033-4-1, Document Nos. 08555-99 & 09077-99

On July 13, 1999, when copies of certain portions of staff's working papers prepared during the audit of FPL's Fuel Cost Recovery Program for the 9 months ended December 31, 1999, were delivered to FPL, the utility requested that these materials be temporarily exempt from public access pursuant to Rule 25-22.006(3)(a)(2), Florida Administrative Code (FAC).

On July 19, 1999, staff filed these identified working papers (Document 08555-99).

On August 2, 1999, FPL requested pursuant to Section 366.093, Florida Statutes (F.S.), and Rule 25-22.006, FAC, that selected portions of these working papers be granted a confidential classification. The utility's request included redacted public copies (Document 09076-99) and copies with the sensitive information highlighted (Document 09077-99) as required by Rule 25-22.006, FAC.

On March 20, 2001, Commission Order PSC-01-0708-CFO-EI granted a 18 month confidential classification to this audit material.

On September 14, 2002, FPL requested extension of the confidential classification granted by Order PSC-01-0708-CFO-EG for an additional 18 months. We find the Commission Clerk's files still retain these selected staff working papers (Document 09077-99), FPL's public copies with the sensitive portions redacted (Document 09076-99), and FPL's copies with the sensitive information highlighted (Document 09077-99).

On January 16, 2003, after discussions with the staff, FPL revised their request limiting the number of staff audit materials for which an additional confidential classification is requested and suggested that a 36 month additional classification period be granted for certain internal audit materials.

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- MMS _____
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Starguerite

DOCUMENT NUMBER-DATE

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FPSC-COMMISSION CLERK

Analysis of the Request

FPL requests extension of the confidential classification on the basis that these working papers still contain sensitive information; that is, a description of internal audits conducted over a particular time period.

FPL and FPL witness, Rick Del Cueto, Manager, Internal Auditing, assert disclosure of audits conducted may negatively affect business relationships with vendors or may provide listings which may be used by plaintiffs and others to pursue issues with FPL. FPL does not voluntarily release any listings of the internal audits performed.

According to FPL, internal audits are conducted on contracts, relationships with specific vendors, and internal processes and controls. FPL claims publication of the fact that an audit has been performed concerning a particular vendor may serve to provoke unwarranted curiosity or suspicion and thus may negatively affect business relationships on the part of either the vendor being audited, the vendor's competitors, or affected investors. Also, FPL claims that releasing a list of audits may be used by others to potentially misconstrue the fact that FPL has or had issues or concerns with a particular subject. For example, listings of audits are frequently used by plaintiff's lawyers and others as "shopping lists" for issues to pursue with a company.

Lastly, FPL and FPL witness Mr. Del Cueto indicate the listing of audits is held as confidential.

Duration of the Extension

Audit materials of this type are retained by the Commission for 25 years.

FPL requests extension of the confidential classification be granted for an additional 18 months or longer, up to an additional 36 months. In addition, FPL requests that these materials be returned to FPL once the Commission no longer needs this material to conduct Commission business.

Section 366.093(4), F.S., limits the duration of confidential classification to 18 months unless cause is shown for a longer period. FPL asserts disclosure of this material may negatively affect business relationships or may aid others in pursuing issues with FPL for a period up to the next 36 months. At the end of that 36 months, the company indicates it needs the opportunity to request additional protection, if necessary.

Recent policy concerning audit materials which remain sensitive for long periods is set out in Commission Order PSC-94-1224-CFO-EI, dated October 6, 1994, Docket 940001-EI. A five year confidential period was allowed for certain sensitive long term contractual information on the basis that contact terms established for a long term will be subject to change over time. The Order also sets a reasonable 5-year protection period. Reports of internal audits and internal auditing controls are set out by Subsection 366.093(3)(b), F.S., as eligible for a confidential classification. This type of information is closely held and sensitive for a long period. It appears reasonable to grant protection to this type of internal audit information for an additional 36 months in addition to the initial confidential period of 18 months.

Staff Recommendation

Based upon reading the filing, we recommend this internal audit information be granted an additional 36 months of confidential protection. Before this period tolls, and as needed, the utility may request an additional period of confidential protection for cause.

A detailed recommendation follows:

Staff Work Paper Number	Page	Line(s)	Recommend	Type of Information Classified Confidential
Documents 08555-99 and 09077-99				
9	1-3	All	Grant Extension for 36 Months	Internal audits or internal auditing controls

A temporary copy of this recommendation will be held at I:09077-99.ext.rf.wpd

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