



# Public Service Commission

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**DATE:** August 18, 2003  
**TO:** Office of General Counsel (Cibula)  
**FROM:** Division of Auditing and Safety (Freeman, Vandiver)  
**RE:** Docket 011321-EI, Recommendation concerning Florida Power & Light Company's (FPL's) request for extension of a confidential classification for a portion of the staff audit report and working papers obtained during the audit numbered 01-067-4-1, entitled "Allocation Methodology for Costs Charged from FPL FiberNet, LLC ("FiberNet") to FPL for the estimated year ended December 31, 2001", Documents Numbered 11852-01, 11853-01 and 12244-01

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On September 11, 2001, when a copy of certain portions of staff's audit report and working papers obtained or prepared during the audit entitled "Allocation Methodology for Costs Charged from FiberNet to FPL for the estimated year ended December 31, 2001" was 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 September 21, 2001, staff filed documents 11852-01 and 11853-01 consisting of those specified portions of the staff audit report and working papers.

On September 27, 2001, 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 includes redacted copies for public inspection (Exhibit B, document 12243-01) and highlighted copies (document 12244-01).

On December 5, 2001, after discussions with the staff, FPL revised its filing and provided additional redacted copies of work papers for public inspection (document 15206-01).

On January 2, 2002, the Commission issued order no. PSC-02-0058-CFO-EI, as amended on January 31, 2002 by order no. PSC-02-0058A-CFO-EI, which grant a confidential classification to the identified portions of Documents 11852-01, 11853-01, and 12244-01.

On June 24, 2003, FPL requested an extension of the confidential classification grant by order PSC-02-0058-CFO-EI.

Documents 11852-01, 11853-01 and 12244-01 are currently held by the Commission's Division of Commission Clerk and Administrative Services as confidential pending resolution of FPL's request for extension of confidential classification.

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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:....

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

(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 the FPL filing reveals the sensitive materials consist of:

#### **1. Sensitive information concerning FiberNet’s pricing and costs**

FiberNet Controller, Sol Stamm, identifies the sensitive information which describes FiberNet’s pricing and costs. Mr. Stamm indicates release of this information would give an unfair advantage to FiberNet’s competitors and would impair the efforts of FiberNet to enter into contracts on favorable terms.

#### **2. Names of FiberNet’s customers.**

FiberNet Controller Stamm identifies those portions of the audit materials which identify the names of FiberNet’s Customers. Mr. Stamm indicates release of this information would provide FiberNet’s competitors with an unfair advantage and would impair FiberNet’s ability to contract on favorable terms.

**Staff Analysis of the Request** (continued)

3. Specific information by location describing FiberNet's Telecommunications equipment.

FiberNet Controller Stamm points out where detailed descriptions by location of FiberNet's telecommunications equipment would tend to reveal FiberNet's system capabilities and/or deficiencies by location. Mr. Stamm indicates release of this information would impair FiberNet's competitive business and would impair FiberNet's ability to contract on favorable terms.

4. Information concerning internal audit reports and internal auditing controls;

FPL Internal Audit Manager Rick Del Cueto identifies which internal audit material is considered sensitive and requests that these materials be held by the Commission as confidential for a period of not less than 18 months. business.

FPL and witnesses Stamm, and Del Cueto report FPL maintains the confidentiality of this material.

**Duration of the Confidential Classification Period**

FPL requests that the material be granted confidential classification for an additional 18 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 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 additional period of confidential classification be set as 18 months. As deemed necessary, the utility may request an extension of the confidential classification before the period tolls.

**Staff Recommendation**

Based upon reading the filing, and for the reasons presented above, we recommend the utility's request be granted, as found, and that the identified material be granted a confidential classification for an additional 18 months.

**CLOSING THE DOCKET**

Once an order granting confidential classification becomes final, the docket should be closed.

A detailed recommendation regarding the material follows:

**Detailed Recommendation**

Staff Work Paper Number	Page(s)	Line(s)	Recommend 18 month Extension?	Type of Information Classified Confidential
Documents 11852-01 and 12244-01				
WP 1 – Report	1	22; Col B, 13-20,24-26	Grant	Sensitive competitive information pertaining to FiberNet
WP 1 – Report	2	Col B, 14,16,26,28,30	Grant	Sensitive competitive information pertaining to FiberNet
WP 1 – Report	3	Col B, 11,13,15,27-29,31,33,35	Grant	Sensitive competitive information pertaining to FiberNet
WP 1 – Report	5	3,8-10; Col B, 12-21	Grant	Sensitive competitive information pertaining to FiberNet
WP 1 – Report	6	Col B, 8-10 & 14	Grant	Sensitive competitive information pertaining to FiberNet
WP 1 – Report	7	6	Grant	Sensitive competitive information pertaining to FiberNet

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Staff Work Paper Number	Page(s)	Line(s)	Recommend 18 month Extension?	Type of Information Classified Confidential
Documents 11852-01 and 12244-01				
WP 1 – Report	8	9-10; Col B, 14,17,19; Col C, 14,17,21	Grant	Sensitive competitive information pertaining to FiberNet
WP 1 – Report	9	Col A, 15,21,32; Col B, 8-9,14-16, 18,21-22,27-29, 32-33,35; Col C, 8-9,14-16, 18,21-22,27-29,32,36	Grant	Sensitive competitive information pertaining to FiberNet
WP 1 – Report	10	Col B&C, 9-17,19-21, 23-27,29-30,32,34	Grant	Sensitive competitive information pertaining to FiberNet
WP 1 – Report	11	Col A, 11; Col B, 8-10,14,16-18 Col C, 8,12-15	Grant	Sensitive competitive information pertaining to FiberNet
Documents 11853-01 and 12244-01				
5	1	11	Grant	Sensitive competitive information pertaining to FiberNet
5	2	3,12,18,23,37	Grant	Sensitive competitive information pertaining to FiberNet
5	3	1,3	Grant	Sensitive competitive information pertaining to FiberNet
9	1-5	All	Grant	Internal Audit Controls and Reports

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Staff Work Paper Number	Page(s)	Line(s)	Recommend 18 month Extension?	Type of Information Classified Confidential
Documents 11853-01 and 12244-01				
9-1	1	10-14	Grant	Internal Audit Controls and Reports
9-1/1	1	4-8	Grant	Internal Audit Controls and Reports
43	1	21-22; Col B, 13-20,23-25	Grant	Sensitive competitive information pertaining to FiberNet
43	2	13,21,32; Col A, 15,29; Col B, 14-16,25-30	Grant	Sensitive competitive information pertaining to FiberNet
43	3	17,25,35; Col A, 12,14,32; Col B, 11-15,27-33;	Grant	Sensitive competitive information pertaining to FiberNet
43	5	3,8-10; Col B, 12-21	Grant	Sensitive competitive information pertaining to FiberNet
43	6	Col B, 8-11,14	Grant	Sensitive competitive information pertaining to FiberNet
43	7	3-6	Grant	Sensitive competitive information pertaining to FiberNet

Staff Work Paper Number	Page(s)	Line(s)	Recommend 18 month Extension?	Type of Information Classified Confidential
Documents 11853-01 and 12244-01				
43	8	9-10; Col B, 14,17,19; Col C, 14,17,21	Grant	Sensitive competitive information pertaining to FiberNet
43-1	1	Col A, 9,16,24,27, 41-42; Col B, 46-50; Col C, 4-5,7-10, 12-17,19-34,36-44, 48-49;	Grant	Sensitive competitive information pertaining to FiberNet
43-1	2	Col A, 11,17-18, 23-24,34,36,38; Col B, 10-11,14-18, 20-24,27-37; Col C, 10-11,14-18, 20-24,27-34,38	Grant	Sensitive competitive information pertaining to FiberNet
43-1	3	Col B, 11-19,21-29, 31-36;	Grant	Sensitive competitive information pertaining to FiberNet
43-1	4	Col A, 13; Col B, 10-13,16, 18-20; Col C, 10,13-17	Grant	Sensitive competitive information pertaining to FiberNet
43-2	1	Col A, 13,17-18; Col B, 3-11,13-15, 17-20,22-26;	Grant	Sensitive competitive information pertaining to FiberNet

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Staff Work Paper Number	Page(s)	Line(s)	Recommend 18 month Extension?	Type of Information Classified Confidential
Documents 11853-01 and 12244-01				
43-2/1	1-18	Col A-B, 1-46	Grant	Sensitive competitive information pertaining to FiberNet
43-2/1	19	Col A-B, 1-15	Grant	Sensitive competitive information pertaining to FiberNet
43-2/2	1	Col A-B, 1-46	Grant	Sensitive competitive information pertaining to FiberNet
43-2/2	2-3	Col A-B, 1-47	Grant	Sensitive competitive information pertaining to FiberNet
43-2/2	4	Col A-B, 1-6	Grant	Sensitive competitive information pertaining to FiberNet
43-3	1	Col A, 8,10,12-13; Col B, 1-8,10,12-13	Grant	Sensitive competitive information pertaining to FiberNet
43-3/1	1	Col A-D, 1-40	Grant	Sensitive competitive information pertaining to FiberNet
43-3/1	2	Col A-D, 1-49	Grant	Sensitive competitive information pertaining to FiberNet
43-3/1	3	Col A-D, 1-45	Grant	Sensitive competitive information pertaining to FiberNet
43-3/1	4	Col A-D, 1-50	Grant	Sensitive competitive information pertaining to FiberNet



Staff Work Paper Number	Page(s)	Line(s)	Recommend 18 month Extension?	Type of Information Classified Confidential
Documents 11853-01 and 12244-01				
43-3/1	5	Col A-D, 1-46	Grant	Sensitive competitive information pertaining to FiberNet
43-3/1	6	Col A-D, 1-48	Grant	Sensitive competitive information pertaining to FiberNet
43-3/1	7	Col A-D, 1-49	Grant	Sensitive competitive information pertaining to FiberNet
43-3/1	8	Col A-D, 1-27	Grant	Sensitive competitive information pertaining to FiberNet
43-3/2	1	Col A-D, 1-51	Grant	Sensitive competitive information pertaining to FiberNet
43-3/2	2	Col A-D, 1-49	Grant	Sensitive competitive information pertaining to FiberNet
43-3/2	3	Col A-D, 1-46	Grant	Sensitive competitive information pertaining to FiberNet
43-3/2	4	Col A-D, 1-44	Grant	Sensitive competitive information pertaining to FiberNet
43-3/3	1	Col A-D, 1-53	Grant	Sensitive competitive information pertaining to FiberNet
43-3/4	1	Col A-D, 1-47	Grant	Sensitive competitive information pertaining to FiberNet

Staff Work Paper Number	Page(s)	Line(s)	Recommend 18 month Extension?	Type of Information Classified Confidential
Documents 11853-01 and 12244-01				
43-4	1	Col A, 1-15	Grant	Sensitive competitive information pertaining to FiberNet
43-4	2-7	Col A-B, 1-46	Grant	Sensitive competitive information pertaining to FiberNet
43-4	8	Col A-B, 1-29	Grant	Sensitive competitive information pertaining to FiberNet
43-4/1	1	Col A-B, 1-46	Grant	Sensitive competitive information pertaining to FiberNet
43-4/1	2	Col A-B, 1-48	Grant	Sensitive competitive information pertaining to FiberNet
43-4/1	3	Col A-B, 1-47	Grant	Sensitive competitive information pertaining to FiberNet
43-4/1	4	Col A-B, 1-31	Grant	Sensitive competitive information pertaining to FiberNet
43-5	1	Col A-B, 1-46	Grant	Sensitive competitive information pertaining to FiberNet
43-5	2-3	Col A-B, 1-47	Grant	Sensitive competitive information pertaining to FiberNet
43-5	4	Col A-B, 1-47; Col C, 1,9	Grant	Sensitive competitive information pertaining to FiberNet

Staff Work Paper Number	Page(s)	Line(s)	Recommend 18 month Extension?	Type of Information Classified Confidential
Documents 11853-01 and 12244-01				
43-5	5	Col A, 30; Col B, 1-28; Col C, 1-29; Col D, 27	Grant	Sensitive competitive information pertaining to FiberNet
43-6	1	6-9,18-21	Grant	Sensitive competitive information pertaining to FiberNet
43-6	2	Col A-O, 2-3	Grant	Sensitive competitive information pertaining to FiberNet
43-6	3	Col, A-P, 3-4	Grant	Sensitive competitive information pertaining to FiberNet
43-6	4	Col A-Q, 3-5	Grant	Sensitive competitive information pertaining to FiberNet
43-6	5	Col A-J, 3-5	Grant	Sensitive competitive information pertaining to FiberNet
43-6	6-7	Col A-P, 3-4	Grant	Sensitive competitive information pertaining to FiberNet
43-6	8	Col A-P, 3-5	Grant	Sensitive competitive information pertaining to FiberNet
43-6	9	Col A-Q, 3-4	Grant	Sensitive competitive information pertaining to FiberNet

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Documents 11853-01 and 12244-01				
43-6	10-12	Col A-M, 3-5	Grant	Sensitive competitive information pertaining to FiberNet
43-6	13	Col A-I, 3-5	Grant	Sensitive competitive information pertaining to FiberNet
43-6	14	Col A-G, 3-5	Grant	Sensitive competitive information pertaining to FiberNet
43-6	15	Col A-J, 3-5	Grant	Sensitive competitive information pertaining to FiberNet
43-6	16	Col A-N, 3-4	Grant	Sensitive competitive information pertaining to FiberNet
43-6	17	Col A-F, 3-5	Grant	Sensitive competitive information pertaining to FiberNet
43-6	18	Col A-G, 2-3	Grant	Sensitive competitive information pertaining to FiberNet
43-6	19	Col A-H, 3-5	Grant	Sensitive competitive information pertaining to FiberNet
43-6/1	1-3	All	Grant	Sensitive competitive information pertaining to FiberNet
43-10	1	2-4,6-8; Col B, 10-12	Grant	Sensitive competitive information pertaining to FiberNet

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Staff Work Paper Number	Page(s)	Line(s)	Recommend 18 month Extension?	Type of Information Classified Confidential
Documents 11853-01 and 12244-01				
43-10/1	1	12,14,22	Grant	Sensitive competitive information pertaining to FiberNet
43-10/1	2	1-22	Grant	Sensitive competitive information pertaining to FiberNet
43-10/1	3	1-3	Grant	Sensitive competitive information pertaining to FiberNet
43-10/1	4	Col A, 5-16	Grant	Sensitive competitive information pertaining to FiberNet
43-10/1	5	Col A, 12; Col B, 5-11,16,25-26; Col C, 3,5,8-9,11, 17-24,26; Col D, 3,5-11,16,19, 22,24-25	Grant	Sensitive competitive information pertaining to FiberNet
43-10/1	6	7,11,12	Grant	Sensitive competitive information pertaining to FiberNet
43-10/2	1	1-4	Grant	Sensitive competitive information pertaining to FiberNet
43-10/2	2	1-23	Grant	Sensitive competitive information pertaining to FiberNet
43-10/2	3	Col A, 6-16,20-21	Grant	Sensitive competitive information pertaining to FiberNet

Staff Work Paper Number	Page(s)	Line(s)	Recommend 18 month Extension?	Type of Information Classified Confidential
Documents 11853-01 and 12244-01				
43-10/2	4	Col A, 5-11,15,24-25; Col B, 3,5,8-9,11, 16-23,25; Col C, 3,5-11,15,18, 21,23-24; Col D, 15,18,21,23-24; Col E, 18	Grant	Sensitive competitive information pertaining to FiberNet
43-10/2	5	11-12	Grant	Sensitive competitive information pertaining to FiberNet
43-11	1	25	Grant	Sensitive competitive information pertaining to FiberNet

A temporary copy of this recommendation will be held at I:Extend.12244-01.fpl.raf.wpd for a short period.

CC: Division of Auditing and Safety (Welch)  
 Division of Commission Clerk and Administrative Services (Flynn)