



# Public Service Commission

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

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**DATE:** July 19, 2004  
**TO:** Katherine Fleming, Attorney, General Counsel  
**FROM:** Bureau of Auditing (Freeman, Vandiver) *W*  
**RE:** Docket 040003-GU, Recommendation concerning Florida Public Utilities Company' (FPUC') request for confidential classification concerning a portion of the staff working papers prepared during "Florida Public Utilities Purchased Gas Adjustment Clause Audit for the Year Ended December 31, 2003", Audit Control No. 04-043-4-2, Documents Numbered 05536-04 and 05962-04

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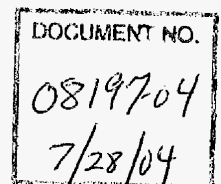
On May 4, 2004, when copies of certain portions of staff's working papers obtained or prepared during the "Florida Public Utilities Purchased Gas Adjustment Clause Audit for the Year Ended December 31, 2003", were delivered to FPUC at the audit exit conference, the utility requested that these materials be temporarily exempted from public access in accordance with the provisions of Rule 25-22.006(3)(a)2., Florida Administrative Code (FAC).

On May 12, 2004, staff filed document 05536-04 consisting of those specified portions of the staff audit working papers.

On May 25, 2004, FPUC filed a request pursuant to Section 366.093, Florida Statutes (F.S), and Rule 25-22.006(3)(a)2. and (4), FAC, that selected portions of the working papers prepared by the staff during the audit receive confidential classification. The utility's request included redacted copies for public inspection (Attachment B, document 05961-04) and highlighted copies (document 05962-04).

Documents 05536-04 and 05962-04 are currently held by the Commission's Division of the Commission Clerk and Administrative Services as confidential pending resolution of FPUC's request for confidential classification.

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. Subsections 366.093(3)(d) and (e), F.S., provide the following exemptions:



Subsection 366.093, F.S., provides; “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 or services on favorable terms.

(e) Information relating to competitive business 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 FPUC filing reveals the sensitive material consists of:

1. Invoices reporting customer-specific information such as usage, charges and other details about customer’s accounts.

FPUC identifies staff working papers entitled as “customer invoice” as containing this type of customer-specific and usage information. The utility argues that release of this information would be of value to competing businesses.

2. Usage Reports describing specific information about customers, charges and revenues.

FPUC argues that release of information from usage reports would provide specific information about customers, charges and revenue which would be valuable to FPUC’s competitors. Specifically, the utility reports that this type of sensitive usage information is contained in staff working papers entitled: “Daily Delivery Variance Report”, “ Pool Manager Daily Delivery Requirement Report”, “Imbalance Report”, “Customer Contract”, and “Daily Delivery Requirement Report.”

3. Other Detailed Reports which disclose customer-specific or consumption information.

FPUC argues that disclosure of information contained in these other detailed reports would also report customer and usage information which would be of value to its competitors. Specifically FPUC asserts this type of information is contained in staff's working papers entitled: "Daily Delivery Variance Report", "Pool Manager Daily Delivery Requirement Report", "Imbalance Report", "Customer Data", "Customer Contract", "List of Customer Invoices", and "Daily Delivery Requirement Report."

4. Contractual information describing charges and amounts paid for supplies.

FPUC identifies the following sensitive materials as reporting charges and amounts paid for supplies: "Operator Scheduled Quantities Report", and "Customer Contract."

Generally, FPUC argues release of the information in the 4 identified categories would cause harm to the ratepayer or the Company's business operations by disclosing information which would be of value to its competitors. FPUC asserts that using the sensitive information contained in staff's working papers would allow competitors to develop information about FPUC and its business which could be used to the disadvantage of FPUC.

FPUC identifies 3 prior Commission decisions which granted a confidential classification to similar sensitive information.

**Commission Order No. PSC-00-1569-CFO-EG, Docket No. 000002-EG, Issued August 31, 2000**, granted a confidential classification to customer-specific account information obtained during a staff audit pertaining to energy conservation cost information. Customer specific account information was considered to include, but not be limited to; customer names, addresses, telephone numbers, account numbers, rates, billing determinates, conservation savings, and bills.

**Commission Order No. PSC-02-1210-CFO-GU, Docket No. 020003-GU, Issued September 4, 2002**, granted a confidential classification to purchased gas adjustment information obtained during a staff audit identifying customers, customer locations and/or customer addresses on the basis that disclosure of this information would harm the competitive business of the utility as well as its customers.

**Commission Order No. PSC-03-1092-CFO-GU, Docket No. 020003-GU, Issued October 1, 2003**, granted a confidential classification to purchased gas adjustment information obtained during a staff audit concerning contractual and pricing information and other contractual data concerning customers, pool managers, accounts, locations, usage and revenues, the disclosure of which would impair the efforts of the utility to contract for goods and services on competitive terms.

**Duration of the Confidential Classification Period**

While FPUC has requested a confidential classification for the specified material, FPUC has not specified the requested time period for this classification. We note the Commission staff's 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 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**

Section 366.093, F.S. provides that the Commission may grant a confidential classification to material the release of which may harm the provider of that information or the ratepayer. Sections 366.093(3)(d) and (e), F.S. provide that the Commission may grant a confidential classification if release of the sensitive material would harm the ability of the utility to favorably enter into contracts or harm the utility's competitive business. Based upon reading the filing, FPUC has demonstrated release of the specified material gathered during this audit would either harm the utility's ability to contract, harm the utility's competitive business or ultimately harm the ratepayer. Based upon reading the filing, and for the reasons presented above, we recommend the utility's request be granted and that the identified material be granted a confidential classification for 18 months.

A detailed recommendation, as found, follows:

**Detailed Recommendation, as found**

Staff Work Paper Number	Page(s)	Line(s)	Recommend	Type of Information Classified Confidential
41-4/2-3	1	Col A, 1-9; Col B, 5; Col C, 5,17-18; Col D, 5,17-18; Col E, 10-15; Col F, 5,10-15; Col G, 7,9,10-16	Grant	Customer-specific information

Staff Work Paper Number	Page(s)	Line(s)	Recommend	Type of Information Classified Confidential
41-6/1-1	1	Col A, 1-4; Col B, 6-8,12-13; Col C, 2-3,6-8; Col D, 5-11	Grant	Customer-specific information
41-6/1-2	1-12	All	Grant	Customer-specific information and usage information
41-6/1-2/1	1-4	All Lines; All hand calculations	Grant	Customer-specific information and usage information
41-6/1-2/2	1-5	All	Grant	Sensitive information concerning natural gas supplies
41-6/1-3	1-9	All	Grant	Customer-specific information and usage information
41-6/1-3/1	1	Col A, 1; Col B-H, All Cols I-J, 32,63; All hand calculations	Grant	Customer-specific information and usage information
41-6/1-3/2	1	Col A, 1-2; Col B, 1-2; Col C, 3-4,11-12; Col D, 3-4,10; Col E, 3-4,10-12; Col F, 3-4; Col G, 3-4; Col H, 3-9		Customer-specific information, usage information and information concerning natural gas supplies

Staff Work Paper Number	Page(s)	Line(s)	Recommend	Type of Information Classified Confidential
41-6/1-3/3	1-2	Col A, 1-3; Col B, 2-3; Col C, 4; Col D, 4,6-9; Col E, 4,6; Col F, 4,6; Col G, 4-8; Col H, 4,8-9	Grant	Customer-specific information
41-6/1-3/4	1	Col A, 1; Cols B-H, All; Col I-J, 32,63; All hand calculations	Grant	Customer-specific information and usage information
41-6/1-3/5	1	Col A, 1; Col B, 2; Col C, 3-4,11-12; Col D, 3-4,10; Col E, 3-4,11-12; Col F, 3-4; Col G, 3-4; Col H, 3-9	Grant	Customer-specific information, usage information and information concerning natural gas supplies

Staff Work Paper Number	Page(s)	Line(s)	Recommend	Type of Information Classified Confidential
41-6/1-3/6	2	Col A, 1-3; Col B, 2-3; Col C, 4; Col D, 4,7-9; Col E, 4,6; Col F, 4,6; Col G, 4; Col H, 4-7; Col I, 4,8-9	Grant	Customer-specific information
41-6/2	1	Cols A-B, 1-5; Col C, 1-8; Col D, 1-5; Col E, 1-8; Col F, 1-5; Col G, 1-8; Col H, 1-5; Col I, 1-8; Col J, 1-5; Col K, 1-8; Col L, 1-5; Col M, 1-8	Grant	Customer-specific information and usage information

Staff Work Paper Number	Page(s)	Line(s)	Recommend	Type of Information Classified Confidential
41-6/2-1	1	Col A, 1-4; Col B, 6-7,10-11; Col C, 2-3,6-8; Col D, 5-9	Grant	Customer-specific information
41-6/2-2	1-10	All	Grant	Customer-specific information and usage information
41-6/2-2/1	1-4	All	Grant	Customer-specific information and usage information
41-6/2-2/2	1-5	All	Grant	Information concerning natural gas supplies
41-6/2-3	1-10	All	Grant	Customer-specific information and usage information

A temporary copy of this recommendation will be held at I:05962-04.FPUCraf.doc for a short period.

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