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Public Service Commission

October 20, 2006

Ms. Natalie F. Smith, Attorney
Florida Power & Light Company
700 Universe Blvd.
Juno Beach, FL 33408-0420

Re: Docket No. 060224-EI, March 13, 2006, Request for confidential classification concerning staff audit working papers prepared during Florida Power & Light Service Connect Process Audit for the Year Ended December 31, 2004, Audit No. 05-285-4-1, Documents 01604-06, 01605-06, 02151-06 and 04185-06

Dear Ms. Smith:

Thank you for your May 12 response to staff's April 13, 2006 letter. (Letter)

We have read your May 12 response and the March 13, 2006 request for confidential classification based on the utility's argument that this material should be protected because the information is competitively sensitive and generally release of this information would cause harm to the provider of the information.

We have also read your June 15, 2006 letter providing audit responses to Audit No. 05-285-4-1 sent to Denise Vandiver with copies to John Slemkewicz, Richard Bellak and myself (Audit Responses).

CMP _____ Section 366.093(3), Florida Statutes (F.S.), provides:

COM _____
CTR _____
ECR _____
GCL _____
OPC _____
RCA _____
SCR _____
SGA _____
SEC _____
OTH _____

(3) 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:

(e) Information pertaining to competitive interests, the disclosure of which would impair the competitive business of the provider of that information. . .

DOCUMENT NUMBER-DATE

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FPSC-COMMISSION CLERK

In view of the above statutory provisions, we concur, in large part, with your argument that much of the material for which FPL seeks confidential classification meets the requirements of Section 366.093(3)(e), because, as stated in your letter,

FPLES' competitive business would be harmed if existing competitors and potential competitors learn the unique processes and procedures used by FPLES in securing business.

Letter, p. 4.

However, we disagree that your argument justifies extending confidential classification to "the names of the Connect Services business partners" because disclosing them would "harm the competitive business of the provider of the information". Letter p. 7.

As stated in Section 366.093(3), confidential proprietary business information is information which "is treated . . . as private . . . and has not been disclosed . . . or . . . released to the public". However, as your letter states,

[i]f the customer is interested, then various products and services are offered to the customer . . . such as local and long distance telephone service, newspaper subscriptions, satellite and cable services To that end, FPLES has formed partnerships with the providers of these services that are offered to customers.
[e.s.]

Letter, p. 6.

Since customers are members of the public, the process you describe unavoidably includes disclosure to the public of the "Connect Services business partners". The information thus disclosed cannot, in staff's view, meet the test set out in Section 366.093(3) for confidential classification. Such material would include the following:

- | | | |
|-----------------|-------------|---|
| 1) Audit Report | Page 4 | All marked information except the four words on line 25 between the words "that" and "such" |
| 2) Audit Report | Page 5 | All information |
| 3) WP 25 A | Page 1 | Listing of providers only |
| 4) WP 29 | Page 2 – 15 | All information |
| 5) WP 42-2 | Page 1 | Listing of providers only |
| 6) WP 42-8 | Page 1 | First sentence only |

October 20, 2006

Within your June 15, 2006 letter (Audit Responses), information marked sensitive in the company's request for confidentiality is provided to staff in a letter. Letters sent to the staff are considered public. Thus, the following information has also been disclosed:

7.) Audit Report	Page 8	All lines except line 26
8.) Audit Report	Page 10	All lines


In its April 13, letter, staff also raised the issue of how FPL's transfer of customer information to its affiliate FPLES should be conceptually understood, and whether, *inter alia*, it was proper to reimburse FPL's costs incurred or whether a different level of reimbursement based on fair market value or regulated fees would be more appropriate. Your May 12 letter provides FPL's views as to those and related issues.

On review, staff believes that resolution of those broader issues are beyond the scope of the narrow task presented by FPL's request for confidential classification pursuant to Section 366.093(3), and should be addressed, if deemed necessary, in a different process.

The remaining concern is, therefore, that information released to the public is not eligible for confidential classification, as described above. Within 14 days from the date of this letter, as deemed necessary, the utility may modify its pleading, justification, redacted or highlighted copies within its request; otherwise, a recommendation will be presented to the Prehearing Officer based upon the existing record.

If you have any technical questions concerning this matter, please contact me, Bob Freeman at telephone: 850-413-6485 or email: bfreeman@psc.state.fl.us. If you have any procedural questions or if you would like to talk to the staff attorney assigned to the case, please contact Richard Bellak at telephone: 850-413-6092 or email: rbellak@psc.state.fl.us.

Sincerely,


Robert Freeman
Governmental Analyst

CC: Division of Commission Clerk and Administrative Services (Lockhard)
Office of General Counsel (Bellak)