



Public Service Commission

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TALLAHASSEE, FLORIDA 32399-0850

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

**DATE:** November 7, 2006

**TO:** Division of Commission Clerk and Administrative Services (Flynn, Lockard) *J*

**FROM:** Division of Regulatory Compliance and Consumer Assistance (Freeman, Vandiver) *F*

**RE:** Docket 011321-EI, Concerning Florida Power & Light Company's (FPL's) claim of confidential classification regarding a portion of the staff audit report and working papers obtained or prepared 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

On September 11, 2001, when copies 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", were delivered to FPL at the audit exit conference, the utility requested that these materials be temporarily exempted from public access in accordance with 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's audit report and working papers.

On September 27, 2001, FPL filed a request pursuant to Rule 25-22.006, FAC, and Section 366.093, Florida Statutes (F.S), that selected portions of the audit report and working papers prepared by the staff during the audit receive confidential classification. The utility's request included redacted copies for public inspection (Exhibit B, document 12243-01) and complete copies of the material with the sensitive portions highlighted (document 12244-01).

- CMP \_\_\_\_\_
- COM \_\_\_\_\_ On December 5, 2001, after discussions with the staff, FPL revised its filing and provided additional redacted copies for public inspection (document 15206-01).
- CTR \_\_\_\_\_
- ECR \_\_\_\_\_ On January 7, 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 in Docket 011321-EI, which granted a
- GCL \_\_\_\_\_ confidential classification to the identified portions of documents 11852-01, 11853-01, and
- OPC \_\_\_\_\_ 12244-01.
- RCA \_\_\_\_\_ On June 24, 2003, FPL filed a first request for extension of the confidential classification for this
- SCR \_\_\_\_\_ material.
- SGA \_\_\_\_\_
- SEC   1
- OTH *Kim P.*  
*Marguerite*

DOCUMENT NUMBER-DATE

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FPSC-COMMISSION CLERK

November 7, 2006  
Florida Power & Light Claim

On August 28, 2003, Commission Order No. PSC-03-0972-CFO-EI in Docket 011321-EI granted FPL's request for extension of the confidential classification for an additional 18 months.

On February 25, 2005, FPL requested that confidential classification for this material be extended a second time.

On April 7, 2005, Commission Order No. PSC-05-0368-CFO-EI in Docket 011321-EI granted FPL's request for a second extension of confidential classification.

On August 16, 2006, FPL claimed confidentiality for this material pursuant to Section 364.183(1), F.S., and Rule 25-22.006(5), FAC. We note there was a scrivener's error within FPL's claim of confidentiality. The material affected by the request is identified as material prepared in accordance with Audit Control Number 04-230-4-10. This audit is already protected by a claim of confidentiality. For the material claimed confidential in this matter, the material was clearly prepared in accordance with Audit Control Number 01-067-4-1 for the audit entitled: "Allocation Methodology for Costs Charged from FiberNet to FPL for the Estimated Year Ended December 31, 2001."

Upon reading documents 11852-01, 11853-01, and 12244-01, we agree this material pertains to the telecommunications operations of FPL Affiliate FiberNet LLP (TX603). Because the information pertains to sensitive business operations of a telecommunications company operating in a competitive marketplace pursuant to the provisions set out by Section 364.183(1), F.S. and Rule 25-22.006(5), FAC, the information may be claimed as confidential.

We recommend that this claim be recognized and that the claim be treated as effective August 16, 2006. According to the procedures for "claims" and existing records retention requirements, documents 11852-01 and 11853-01 should be held as confidential pending their destruction on August 16, 2011, and subsequently, document 12244-01 may be returned to FPL.

Further, the docket number for this material should be changed from 011321-EI to 011321-TL to reflect the material is now subject to the procedures associated with telecommunications material claimed as confidential.

Lastly, this docket should be closed as no further work concerning this material remains to be performed. A Commission order is not necessary to effect a claim of confidentiality for sensitive material pertaining to a telecommunications company.

*OK to close 11/07/06 hms*

CC: Division of Regulatory Compliance and Consumer Assistance (Welch)  
Office of General Counsel (Cibula)

Natalie Smith, Attorney  
Florida Power & Light Company  
700 Universe Boulevard  
Juno Beach Florida 33408-0420