

State of Florida



Public Service Commission

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RECORDS AND REPORTING

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DATE: March 4, 1999
 TO: BLANCA BAYO, DIRECTOR OF RECORDS AND REPORTING
 FROM: RICHARD C. BELLAK, DIVISION OF APPEALS *RCB*
 RE: DOCKET NO. 971298-EI

PSC-99-0473-CA-EI

FILE NAME: 971298.ORD

Attached is an order to be issued as soon as possible.

RCB

Attachment

cc: Wanda Terrell

MUST GO TODAY

ATTACHMENT(S) NOT ON-LINE

LRAR

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Request for confidential classification of certain material obtained during surveillance audit of Florida Power & Light Company. (Audit Control No. 97-125-4-1).

DOCKET NO. 971298-EI
ORDER NO. PSC-99-0473-CFO-EI
ISSUED: March 8, 1999

ORDER GRANTING FLORIDA POWER & LIGHT COMPANY'S
REQUEST FOR CONFIDENTIAL CLASSIFICATION

On October 20, 1997, Florida Power & Light Company (FPL), pursuant to Rule 25-22.006, F.A.C., and Section 366.093, Florida Statutes, requested that portions of the staff audit report and working papers prepared by staff during the earnings audit for the twelve month period ended December 31, 1996 receive confidential classification. The documents for portions of which confidential classification is sought are Document Nos. 10264-97, 10765-97, 03037-98 and 12140-98.

Florida law presumes that documents submitted to governmental agencies shall be public records. The only exceptions to this presumption are the specific statutory exemptions provided in the law and exemptions granted by governmental agencies pursuant to the specific terms of a statutory provision. This presumption is based on the concept that government should operate in the "sunshine". Rule 25-22.006(4)(c), Florida Administrative Code, provides that it is the Company's burden to demonstrate that the documents fall into one of the statutory examples set out in Section 366.093, Florida Statutes, or to demonstrate that the information is proprietary confidential information, the disclosure of which will cause the Company or its ratepayers harm.

Pursuant to Section 366.093(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

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business operations, and has not been disclosed unless disclosed pursuant to a statutory provision, an order of the 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.

...(d) Information related to competitive interests, the disclosure of which would impair the competitive business of the provider of the information.

As noted in Attachment I, all of the materials for which confidential classification is sought have been found, on review, to meet the requirements of either Section 366.093(3)(b) or 366.093(3)(d). Accordingly, they would normally be so classified for a period of 18 months pursuant to Section 366.093(4), unless good cause is demonstrated to justify a longer term.

In the instance of certain information from the Company's Director's meetings, FPL asserts that the corporate strategies and business plans there at issue span periods well in excess of 18 months and that those materials should be classified as confidential for at least 36 months. Good cause having been shown, those documents for which a 36 month confidential treatment period has been given are set out in Attachment I. The remaining listed materials will be treated as confidential for 18 months.

Based on the foregoing, it is therefore

ORDERED by Commissioner J. Terry Deason, as Prehearing Officer, that Florida Power & Light Company's Request for Confidential Classification of those portions of Documents Nos. 10264-97, 10765-97, 03037-98 and 12140-98 listed in Attachment I is granted. It is further


ORDERED that pursuant to Section 366.093, Florida Statutes and Rule 25-22.006, Florida Administrative Code, any confidentiality granted to the material specified herein shall expire either eighteen (18) months or thirty-six (36) months from the date of issuance of this Order, as specified in Attachment I, in the

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absence of a renewed request for confidentiality pursuant to Section 366.093, Florida Statutes. It is further

ORDERED that this Order will be the only notification by the Commission to the parties concerning the expiration of the confidentiality time period.

BY ORDER of Commissioner J. Terry Deason as Prehearing Officer this 8th day of March, 1999.


J. TERRY DEASON, Commissioner
and Prehearing Officer

(S E A L)

RCB

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

Any party adversely affected by this order, which is preliminary, procedural or intermediate in nature, may request: (1) reconsideration within 10 days pursuant to Rule 25-22.038(2), Florida Administrative Code, if issued by a Prehearing Officer; (2) reconsideration within 15 days pursuant to Rule 25-22.060, Florida Administrative Code, if issued by the Commission; or (3) judicial review by the Florida Supreme Court, in the case of an electric, gas or telephone utility, or the First District Court of Appeal, in the case of a water or wastewater utility. A motion for reconsideration shall be filed with the Director, Division of Records and Reporting, in the form prescribed by Rule 25-22.060,

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Florida Administrative Code. Judicial review of a preliminary, procedural or intermediate ruling or order is available if review of the final action will not provide an adequate remedy. Such review may be requested from the appropriate court, as described above, pursuant to Rule 9.100, Florida Rules of Appellate Procedure.

Staff Work Paper Number	Page Number(s)	Lines	Recommend	Reason	Period
Documents 10264-97, 10765-97 and 12140-98					
Audit Report	1	All lines of Paragraphs 1,3,4	Grant	Disclosure of information could harm competitive business interests.	18 mos.
Audit Report	2	All lines of paragraphs 8,9	Grant	Disclosure of information could harm competitive business interests.	18 mos.
4-1/1	1	Lines marked A	Grant	Disclosure of information could harm competitive business interests.	18 mos.
8-4	1	Lines marked A	Grant	Disclosure of information could harm competitive business interests.	36 mos.
8-4	2	Lines marked B,C,D,E,F, G,H,I	Grant	Disclosure of information could harm competitive business interests.	36 mos.
8-4	3	Lines marked J,K,L	Grant	Disclosure of information could harm competitive business interests.	36 mos.

Staff Work Paper Number	Page Number(s)	Lines	Recommend	Reason	Period
Documents 10264-97, 10765-97 and 12140-98					
8-4	4	Lines marked L,M,N,O,P, Q,R,S,T	Grant	Disclosure of information could harm competitive business interests.	36 mos.
8-4	5	Lines marked U	Grant	Disclosure of information could harm competitive business interests.	36 mos.
8-4	7	Lines marked V,W	Grant	Disclosure of information could harm competitive business interests.	36 mos.
8-4	8	Lines marked W	Grant	Disclosure of information could harm competitive business interests.	36 mos.
8-4	9	Lines marked X,Y	Grant	Disclosure of information could harm competitive business interests.	36 mos.
8-4	10	Lines marked Z	Grant	Disclosure of information could harm competitive business interests.	36 mos.

Staff Work Paper Number	Page Number(s)	Lines	Recommend	Reason	Period
Documents 10264-97, 10765-97 and 12140-98					
8-6	1	Lines marked A,B	Grant	Discloses internal audit reports	18 mos.
8-6	2	Lines marked A,B	Grant	Discloses internal audit reports	18 mos.
8-6	3	Lines marked A,B	Grant	Discloses internal audit reports	18 mos.
8-6	4	Lines marked A,B	Grant	Discloses internal audit reports	18 mos.
Documents 10264-97, 10765-97 and 03037-98					
9	1-7,10-16	All	Grant	Disclosure of information could harm competitive business interests.	18 mos.
9	18	1	Grant	Disclosure of information could harm competitive business interests.	18 mos.
9	19-22	All	Grant	Disclosure of information could harm competitive business interests.	18 mos.

Staff Work Paper Number	Page Number(s)	Lines	Recommend	Reason	Period
Documents 10264-97, 10765-97 and 03037-98					
9	25-26	All	Grant	Disclosure of information could harm competitive business interests.	18 mos.
9	28	All	Grant	Disclosure of information could harm competitive business interests.	18 mos.
9	40,41	All	Grant	Disclosure of information could harm competitive business interests.	18 mos.
9	46	All	Grant	Disclosure of information could harm competitive business interests.	18 mos.
9	51-55	All	Grant	Disclosure of information could harm competitive business interests.	18 mos.
9	67,68,69	Column M	Grant	Disclosure of information could harm competitive business interests.	18 mos.

Staff Work Paper Number	Page Number(s)	Lines	Recommend	Reason	Period
Documents 10264-97, 10765-97 and 03037-98					
9	70	Column M line 11	Grant	Disclosure of information could harm competitive business interests.	18 mos.
9	71	Column C,D,E	Grant	Disclosure of information could harm competitive business interests.	18 mos.
9	72,73,74,76,78,79,80,81,87	All	Grant	Disclosure of information could harm competitive business interests.	18 mos.
9	88	Column L	Grant	Disclosure of information could harm competitive business interests.	18 mos.
9	89	1	Grant	Disclosure of information could harm competitive business interests.	18 mos.
9	107	Column C	Grant	Disclosure of information could harm competitive business interests.	18 mos.

Staff Work Paper Number	Page Number(s)	Lines	Recommend	Reason	Period
Documents 10264-97, 10765-97 and 03037-98					
9	110-112	All	Grant	Disclosure of information could harm competitive business interests.	18 mos.
9	113-120	All	Grant	Disclosure of information could harm competitive business interests.	18 mos.
9	127-131	All	Grant	Disclosure of information could harm competitive business interests.	18 mos.
9-1	1-16	All	Grant	Disclosure of information could harm competitive business interests.	18 mos.
9-2	1	All	Grant	Disclosure of information could harm competitive business interests.	18 mos.
9-2/1	1-3	All	Grant	Disclosure of information could harm competitive business interests.	18 mos.

Staff Work Paper Number	Page Number(s)	Lines	Recommend	Reason	Period
Documents 10264-97, 10765-97 and 03037-98					
16-7/1	1-3	All	Grant	Disclosure of information could harm competitive business interests.	18 mos.
16-7/2	1-4	All	Grant	Disclosure of information could harm competitive business interests.	18 mos.
16-7/2-1	1-3	All	Grant	Disclosure of information could harm competitive business interests.	18 mos.
19-3/1	1	All	Grant	Disclosure of information could harm competitive business interests.	18 mos.
19-3/2	1-9	All	Grant	Disclosure of information could harm competitive business interests.	18 mos.
21-7	1-2	All	Grant	Disclosure of information could harm competitive business interests.	18 mos.

Staff Work Paper Number	Page Number(s)	Lines	Recommend	Reason	Period
Documents 10264-97, 10765-97 and 03037-98					
21-7/3-2	1	All	Grant	Disclosure of information could harm competitive business interests.	18 mos.
21-7/7	2	Columns 11,14	Grant	Disclosure of information could harm competitive business interests.	18 mos.
21-7/7	5	Column 12	Grant	Disclosure of information could harm competitive business interests.	18 mos.
21-7/7	6	Column 13	Grant	Disclosure of information could harm competitive business interests.	18 mos.
21-7/8	2	All	Grant	Disclosure of information could harm competitive business interests.	18 mos.
21-7/8-1	1	All	Grant	Disclosure of information could harm competitive business interests.	18 mos.

Staff Work Paper Number	Page Number(s)	Lines	Recommend	Reason	Period
Documents 10264-97, 10765-97 and 03037-98					
22-1/1	1-5	All	Grant	Disclosure of information could harm competitive business interests.	18 mos.
22-1/1-1	1-4	All	Grant	Disclosure of information could harm competitive business interests.	18 mos.
44-1	5	Columns 13,14	Grant	Disclosure of information could harm competitive business interests.	18 mos.
44-1	6	3,4,5,6	Grant	Disclosure of information could harm competitive business interests.	18 mos.

For a limited time, a copy of this recommendation will be retained at I:12140-98.RAF.

CC: Division of Financial Analysis (Slemkewicz, Welch, Wilson, Pelt)
 Division of Electric and Gas (Jenkins)
 Division of Records and Reporting (M. Sanders)