

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Request for confidentiality of documents and information provided to Florida Public Service Commission in connection with audit of 1999 earnings (Audit Control No. 00-054-4-2), by Florida Public Utilities Company.

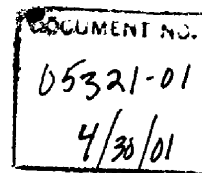
DOCKET NO. 000814-EI  
ORDER NO. PSC-01-1038-CFO-EI  
ISSUED: April 30, 2001

ORDER GRANTING REQUEST FOR CONFIDENTIAL CLASSIFICATION OF  
DOCUMENT NOS. 07438-00 AND 08120-00

On June 12, 2000, at the exit conference concluding our staff's surveillance audit of Florida Public Utilities Company's (FPUC) Fernandina Beach Division for the year ended December 31, 1999, FPUC requested temporary confidential treatment for certain portions of our staff's audit working papers, in accordance with our Rule 25-22.006(3)(a)(2), Florida Administrative Code. Document 07438-00 contains those specified portions of the audit working papers. Thereafter, on July 3, 2000, FPUC filed a formal Request for Confidential Classification of the working papers pursuant to section 366.093, Florida Statutes, and Rule 25-22.006. The request included Document No. 08120-00, a copy of the papers highlighting the portions for which confidential treatment was requested, and a line by line justification of the request.

The information for which FPUC requests confidentiality consists of:

1. Deloitte & Touche external audit working papers testing FPUC financial information for such categories as cash, receivables, prepaid expenses, - PGA (purchased gas adjustment) over or under recoveries, liabilities and revenues, as well as the external auditor's summaries of corporate minutes;
2. Letter from FPUC to Deloitte & Touche regarding the representations and disclosures made to Deloitte & Touche during the audit;



3. Deloitte and Touche working papers describing internal controls of the FPUC payroll application system;
4. Deloitte and Touche working papers testing depreciation accounts of FPUC's Marianna and Fernandina electric properties; and
5. Deloitte and Touche working papers testing the utility's expense data.

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(3) (a) (2), Florida Administrative Code, provides that it is the petitioner'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 business information, the disclosure of which will cause the petitioner or its ratepayers harm.

Section 366.093, Florida Statutes, provides, in pertinent part:

The term "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 relating to competitive interests, the disclosure of which would impair the competitive business of the provider of the information.

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FPUC claims that the documents identified above and the information contained therein are intended to be and are treated by FPUC and Deloitte and Touche as confidential, and FPUC requests confidential protection for the material on the ground that its public disclosure would harm the competitive business interests of the external auditor. The Commission has protected similar material from disclosure in other cases where the material reveals the audit strategy and work program methodology of the external auditor. Disclosure of that information could harm the auditor's competitive interests. See, for example: Order No. 25297, issued November 5, 1991, in Docket No. 890190-TL; Order No. PSC-93-1062-CFO-TL, issued July 21, 1993, in Docket No. 920260-TL; Order No. PSC-00-1529-CFO-GU, issued August 23, 2000, in Docket No. 000616-GU.

Upon review, I find that the material identified in FPUC's confidentiality request reveals the audit strategies and analytical methodology of the external auditor, and is therefore entitled to confidential treatment. Accordingly, the Request for Confidential Classification is granted, for a period of 18 months from the date this Order is issued.

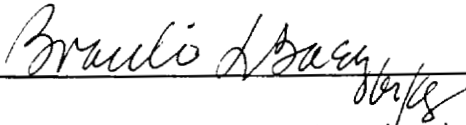
Based on the foregoing, it is

ORDERED by Commissioner Braulio L. Baez that the Request for Confidential Classification filed by Florida Public Utilities Company is granted for a period of 18 months from the date this Order is issued. It is further

ORDERED that this Order shall be the only notification by the Commission to the parties of the date of declassification of the materials discussed herein.

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By ORDER of Commissioner Braulio L. Baez, as Prehearing Officer, this 30th day of April, 2001.

  
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BRAULIO L. BAEZ, Commissioner  
and Prehearing Officer

( S E A L )

MCB

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.