

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Request for confidential classification of material provided pursuant to Audit No. 01-067-4-1 by Florida Power & Light Company.

DOCKET NO. 011321-EI
ORDER NO. PSC-02-0058-CFO-EI
ISSUED: January 7, 2002

ORDER GRANTING REQUEST FOR CONFIDENTIAL CLASSIFICATION

On September 11, 2001, at an exit conference concluding our staff's audit of Florida Power & Light Company's (FPL) allocation methodology of the costs charged from FPL FiberNet, LLC, (FPL FiberNet) to FPL for the estimated year ended December 31, 2001, FPL requested temporary confidential treatment of certain portions of our staff's working papers, in accordance with Rule 25-22.006(3)(a)(2), Florida Administrative Code. Documents Nos. 11852-01 and 11853-01 contain those specified portions of the audit working papers. On September 27, 2001, pursuant to Section 366.093, Florida Statutes, and Rule 25-22.006, Florida Administrative Code, FPL filed a formal request for confidential classification of materials provided pursuant to Audit No. 01-067-4-1. The utility's request included redacted copies for public inspection (Document No. 12243-01), highlighted copies (Document No. 12244-01), and a page-by-page, line-by-line justification for the request.

On October 30, 2001, Commission staff submitted a letter to FPL requesting that the company provide additional justification as to how the release of certain information contained in Staff Work Paper No. 1 would harm the utility. In response to the Commission staff's letter, FPL revised its request for confidential classification and provided revised redacted copies for public inspection on December 5, 2001.

FPL requests confidential classification for the information set forth below, which is contained in Documents Nos. 11852-01 and 12244-01.

DOCUMENT NUMBER-DATE

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FPSC-COMMISSION CLERK

Staff Work Paper No.	Page(s)	Line(s)
WP 1 - Report	1	22; Col. B, 13-20, 24-26
WP 1 - Report	2	Col. B, 14, 16, 26, 28, 30
WP 1 - Report	3	Col. B, 11, 13, 15, 27-29, 31, 33, 35
WP 1 - Report	5	3, 8-10; Col. B 12-21
WP 1 - Report	6	Col. B, 8-10, 14
WP 1 - Report	7	6
WP 1 - Report	8	9-10, Col. B, 14, 17, 19; Col. C, 14, 17, 21
WP 1 - Report	9	Col. A, 15, 21, 32; Col. B, 8-9, 14-16, 18, 21-22, 27-29, 32-33, 35; Col. C, 8-9, 14-16, 18, 21-22, 27-29, 32,36
WP 1 - Report	10	Cols. B&C, 9-17, 19-21, 23-27, 29-30, 32, 34
WP 1 - Report	11	Col. A, 11; Col. B, 8-10, 14, 16-18; Col. C, 8, 12-15

FPL states that the documents listed above contain information relating to the competitive interests of FPL FiberNet, the disclosure of which would give an unfair advantage to FPL FiberNet's competitors and would impair the efforts of FPL FiberNet to enter into contracts on favorable terms. FPL states that it treats the materials listed above as private and that the documents have not been disclosed.

FPL also requests confidential classification for information contained in Documents Nos. 11853-01 and 12244-01, as set forth below.

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9	1-5	All
9-1	1	10-14
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9-1/2	1	All
9-1/2-1	1	All
43	1	21-22; Col. B, 13-20, 23-25
43	2	13, 21, 32; Col. A, 15, 29; Col. B, 14-16, 25-30
43	3	17, 25, 35; Col. A, 12, 14, 32; Col. B, 11-15, 27-33
43	5	3, 8-10; Col. B, 12-21
43	6	Col. B, 8-11, 14
43	7	3-6
43	8	9-10; Col. B, 14, 17, 19; Col. C, 14, 17, 21
43-1	1	Col. A, 9, 16, 24, 27, 41-42; Col. B, 46-50; Col. C, 4-5, 7-10, 12-17, 19-34, 36-44, 48-49

Staff Work Paper No.	Page(s)	Line(s)
43-1	2	Col. A, 11, 17-18, 23-24, 34, 36, 38; Col. B, 10-11, 14-18, 20-24, 27-37; Col. C, 10-11, 14-18, 20-24, 27-34, 38
43-1	3	Col. B, 11-19, 21-29, 31-36;
43-1	4	Col. A, 13; Col. B, 10-13, 16, 18-20; Col. C, 10, 13-17
43-2	1	Col. A, 13, 17-18; Col. B, 3-11, 13-15, 17-20, 22-26
43-2/1	1-18	Cols. A-B, 1-46
43-2/1	19	Cols. A-B, 1-15
43-2/2	1	Cols. A-B, 1-46
43-2/2	2	Cols. A-B, 1-47
43-2/2	3	Cols. A-B, 1-6
43-3	1	Col. A, 8, 10, 12-13; Col. B, 1-8, 10, 12-13
43-3/1	1	Cols. A-D, 1-40
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43-3/1	3	Cols. A-D, 1-45
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43-3/2	3	Cols. A-D, 1-46
43-3/2	4	Cols. A-D, 1-44
43-3	1	Cols. A-D, 1-53
43-4	1	Cols. A-D, 1-47
43-4	1	Col. A, 1-15
43-4	2-7	Cols. A-B, 1-46
43-4	8	Cols. A-B, 1-29
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43-4/1	3	Cols. A-B, 1-47
43-4/1	4	Cols. A-B, 1-31
43-5	1	Cols. A-B, 1-46
43-5	2-3	Cols. A-B, 1-47
43-5	4	Cols. A-B, 1-47; Col. C, 1, 9
43-5	5	Col. A, 30; Col. B, 1-28; Col. C, 1-29; Col. D, 27
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43-6	2	Cols. A-O, 2-3
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43-6	9	Cols. A-Q, 3-4
43-6	10-12	Cols. A-M, 3-5
43-6	13	Cols. A-I, 3-5
43-6	14	Cols. A-G, 3-5
43-6	15	Cols. A-J, 3-5
43-6	16	Cols. A-N, 3-4
43-6	17	Cols. A-F, 3-5
43-6	18	Cols. A-G, 2-3
43-6	19	Cols A-H, 3-5
43-6/1	1-3	All
43-10	1	2-4, 6-8; Col. B, 10-12
43-10/1	1	12, 14, 22
43-10/1	2	1-22
43-10/1	3	1-3
43-10/1	4	Col. A, 5-16
43-10/1	5	Col. A, 12; Col. B, 5-11, 16, 25-26; Col. C, 3, 5, 8-9, 11, 17-24, 26; Col. D, 3, 5-11, 16, 19, 22, 24-25
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Staff Work Paper No.	Page(s)	Line(s)
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43-10/2	2	1-23
43-10/2	3	Col. A, 6-16, 20-21
43-10/2	4	Col. A, 5-11, 15, 24-25; Col. B, 3, 5, 8-9, 11, 16-23, 25; Col. C, 3, 5-11, 15, 18, 21, 23-24 Col. D, 15, 18, 21, 23-24; Col. E, 18
43-10/2	5	11-12
43-11	1	25

FPL states that the information contained in Staff Work Paper No. 9, pages 1-5, Staff Work Paper No. 9-1, page 1, lines 10-14, and Staff Work Paper No. 9-1/1, page 1, lines 4-8, concerns internal audit controls. FPL further states that the information contained in Staff Work Paper 9-1/2, page 1, and Staff Work Paper 9-1/2-1, page 1, concerns sensitive competitive information pertaining to FPL and that the release of this information would provide an unfair advantage to FPL's competitors and impair the company's ability to enter into contracts on favorable terms. FPL states that the remainder of the documents listed above contain information relating to the competitive interests of FPL FiberNet, the disclosure of which would give an unfair advantage to FPL FiberNet's competitors and would impair the efforts of FPL FiberNet to enter into contracts on favorable terms. FPL again states that it treats the materials listed above as private and that the documents have not been disclosed.

Pursuant to Section 119.01, Florida Statutes, documents submitted to this Commission are public records. The only exemptions to this law are specific statutory exemptions and exemptions granted by governmental agencies pursuant to the specific terms of a statutory provision.

Pursuant to Section 366.093, Florida Statutes, any records received by the Commission which are shown and found by the Commission to be proprietary confidential business information shall be kept confidential and exempt from the public access requirements of Section 119.07(1), Florida Statutes. Under Section 366.093, Florida Statutes, and Rule 25-22.006, Florida Administrative Code, the petitioner has the burden of demonstrating that the materials qualify for confidential classification. Rule 25-22.006, Florida Administrative Code, requires the petitioner to demonstrate that the information falls into one of the categories set forth in Section 366.093, Florida Statutes.

Section 366.093, Florida Statutes, defines "proprietary confidential business information" as

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:

- (b) Internal auditing controls and reports of internal auditors.

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

Upon review, I find that the information identified in FPL's confidentiality request for Staff Work Paper No. 9, pages 1-5, Staff Work Paper No. 9-1, page 1, lines 10-14, and Staff Work Paper No. 9-1/1, page 1, lines 4-8, reveals the audit strategies and

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analytical methodology of the internal auditor. Furthermore, I find that the remaining material reveals sensitive competitive information, the disclosure of which may give an unfair advantage to FPL's and FPL FiberNet's competitors and may impair the efforts of FPL and FPL FiberNet to enter into contracts on favorable terms. Accordingly, FPL's request for confidential classification is hereby granted for a period of 18 months from the issuance date of this Order. At that time, the information contained in Documents Nos. 11852-01 and 11853-01 may be returned to the company.

Document No. 12244-01, however, reports the audit work performed by Commission staff and must be retained in accordance with the Commission's established record retention requirements. Before the 18-month confidential classification period expires, the company may request that the confidential period be extended.

Based on the foregoing, it is

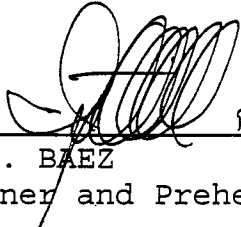
ORDERED by Commissioner Braulio L. Baez, as Prehearing Officer, that Florida Power & Light Company's request for confidential classification of materials provided pursuant to Audit No. 01-067-4-1 is granted for a period of 18 months from the issuance date of this Order. It is further

ORDERED that this Order shall be the only notification by the Commission to the parties of the expiration of the confidentiality time period. It is further

ORDERED that this docket shall be closed.

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By ORDER of Commissioner Braulio L. Baez, as Prehearing Officer, this 7th day of January, 2002.



BRAULIO L. BAEZ
Commissioner and Prehearing Officer

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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.

Mediation may be available on a case-by-case basis. If mediation is conducted, it does not affect a substantially interested person's right to a hearing.

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 25-22.0376, 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

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reconsideration shall be filed with the Director, Division of the Commission Clerk and Administrative Services, in the form prescribed by Rule 25-22.060, 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.