

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Request for confidential classification of material provided pursuant to Audit Control No. 02-174-4-1 by Florida Power & Light Company.

DOCKET NO. 021111-EI
ORDER NO. PSC-03-0511-CFO-EI
ISSUED: April 17, 2003

ORDER GRANTING REQUEST FOR CONFIDENTIAL CLASSIFICATION

At the exit conference on October 9, 2002, which concluded staff's audit of Florida Power & Light Company's revenue refund for the year ending April 14, 2002, the utility requested temporary confidential treatment of certain portions of staff's audit report and working papers in accordance with the provisions of Rule 25-22.006(3)(a)(2), Florida Administrative Code. Document No. 11267-02 contains the specified portions of these materials. On October 29, 2002, Florida Power & Light Company (FPL) filed a formal request for confidential classification of the materials pursuant to Section 366.093, Florida Statutes, and Rule 25-22.006, Florida Administrative Code. FPL's request included a highlighted copy of the papers (Document No. 11872-02). The utility filed a revised request on January 23, 2003, that included a redacted copy for public inspection (Document No. 00741-03) as well as a final list by page and line of the information requested to be granted confidential classification.

The information for which FPL requests confidential classification consists of: 1) customer-specific account information for non-governmental customers; 2) security measures; 3) sensitive FPL business strategies and plans; and 4) sensitive business information about FPL's affiliate, FiberNet. FPL's request is supported by affidavits of several of its managers that have personal knowledge of the company's policies and its handling of the material asserted to be proprietary confidential business information.

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

Section 366.093(3), 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

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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:

(c) Security measures, systems, or procedures.

(d) Information concerning bids or other contractual data, the disclosure of which would impair the efforts of the public utility or its affiliates to contract for goods or services on favorable terms.

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

FPL asserts that it has a corporate policy not to disclose customer-specific information, including customer names, addresses, telephone numbers, account numbers, rates, billing determinants (kW and kWh usage), conservation savings (in kW), kilowatt hours and bills. FPL asserts that disclosure of non-governmental customers' specific information may harm some customers' competitive interests, in that electric usage is an important part of the customer's production or operating costs. Disclosure of rate or contract information, as well as consumption levels or patterns, could provide competitors with commercially sensitive information that would provide them an unfair advantage.

FPL affiliate FiberNet's financial projections, operating results, contract and pricing information, and cost data are also asserted to be confidential. FPL states that disclosure of this information would afford FiberNet's competitors an unfair advantage over FiberNet and would impair its efforts to enter into contracts on commercially favorable terms. FPL further asserts that the disclosure of its business plans and strategies would impair the competitive business of FPL. In addition, documents describing internal management procedures and controls for an FPL recycling and distribution center should be classified as confidential because they constitute security measures, systems, or procedures. FPL states that all material for which confidential classification is requested is treated as private and has not been disclosed.

Upon review, and as specifically identified in the chart incorporated in this Order as Attachment A, I find that the information identified in FPL's Request for Confidential Classification reveals: 1) sensitive contractual and competitive information, the disclosure of which may impair the competitive business of the company or its customers; 2) security measures, systems, or procedures; and 3) information concerning contractual data, the disclosure of which would impair the efforts of the utility or its affiliate to contract for goods or services 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.

Based on the foregoing, it is

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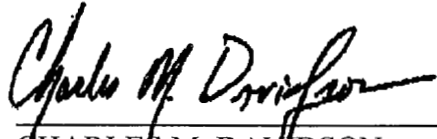
ORDERED by Commissioner Charles M. Davidson, as Prehearing Officer, that Florida Power & Light Company's Request for Confidential Classification of portions of Document Nos. 11267-02 and 11872-02 is granted as set forth in this Order. It is further

ORDERED that pursuant to Section 366.093(4), Florida Statutes, and Rule 25-22.006(9), Florida Administrative Code, any confidentiality granted to the documents specified herein shall expire 18 months from the date of issuance of this Order in the absence of a renewed request for confidentiality pursuant to Section 366.093. 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.

ORDERED that this docket shall be closed.

By ORDER of Commissioner Charles M. Davidson, as Prehearing Officer, this 17 day of April, 2003.



CHARLES M. DAVIDSON
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 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.

ATTACHMENT A
Document Nos. 11267-02 and 11872-02

Staff Work Paper	Page Number(s)	Lines(s)	Decision	Type of Information Classified Confidential
1	8	5	Grant	Sensitive Competitive Business Information
1	9	Col A, 6,11,16,21, 26,31; Col B-D, 4-7,9-12, 14-17,19-22,24-27, 29-33	Grant	Sensitive Competitive Business Information
41-3/1-1/7	1	2,4; Col A, B, 6; 10-13,17-22,24	Grant	Sensitive Contractual and Competitive Information
41-3/1-1/8	1	2,4; Col A, B, 6; 10-14,18-24,26	Grant	Sensitive Contractual and Competitive Information
41-3/1-1/9	1	2,4; Col A, B, 6; 10-12,16-21,23	Grant	Sensitive Contractual and Competitive Information
41-3/1-1/10	1	2,4; Col A, B, 6; 10-13,17-22,24	Grant	Sensitive Contractual and Competitive Information

Staff Work Paper	Page Number(s)	Lines(s)	Decision	Type of Information Classified Confidential
41-3/1-1/11	1	2,4; Col A, B, 6; 10-12,16-21,23	Grant	Sensitive Contractual and Competitive Information
41-8/3-1	5	3-6	Grant	Sensitive Contractual and Competitive Information
41-8/3-1	6	3-6	Grant	Sensitive Contractual and Competitive Information
41-8/3-1	7	3-6	Grant	Sensitive Contractual and Competitive Information
41-8/3-1	10	3-6	Grant	Sensitive Contractual and Competitive Information
41-8/3-1	11	3-6	Grant	Sensitive Contractual and Competitive Information
41-8/3-1	12	3-6	Grant	Sensitive Contractual and Competitive Information
41-9/5-1	1	16-17,26-27	Grant	Sensitive Contractual and Competitive Information
41-9/5-1	2	2-3,12-13,15-16,18-19	Grant	Sensitive Contractual and Competitive Information
41-10/1	1	Col E, 14,27,38-39	Grant	Sensitive Contractual and Competitive Information
41-10/1	16	Col E, 21-22,35-36	Grant	Sensitive Contractual and Competitive Information
41-10/1	18	Col E, 9,31,32	Grant	Sensitive Contractual and Competitive Information
41-10/1	19	Col E, 40	Grant	Sensitive Contractual and Competitive Information

Staff Work Paper	Page Number(s)	Lines(s)	Decision	Type of Information Classified Confidential
41-10/1	27	Col E, 27	Grant	Sensitive Contractual and Competitive Information
41-10/1	29	Col E, 6,8,12	Grant	Sensitive Contractual and Competitive Information
41-10/1	42	Col E, 32	Grant	Sensitive Contractual and Competitive Information
41-10/1-1	1	Col C, 2,5,8,11, 14-16,19,22,25,29	Grant	Sensitive Contractual and Competitive Information
41-10/1-1/1	1	1,6,10,14,18,22,26,30, 34,38	Grant	Sensitive Contractual and Competitive Information
41-10/1-1/1-1	1	2,4; Col A, B, 6; 10-13,17-22, 24	Grant	Sensitive Contractual and Competitive Information
41-10/1-1/1-1	2	2,4; Col A, B, 6; 10-13,17-22,24	Grant	Sensitive Contractual and Competitive Information
41-10/1-1/1-1	3	2,4; Col A, B, 6; 10-13,17-22,24	Grant	Sensitive Contractual and Competitive Information
41-11	3-6	All	Grant	Security Measures
41-11/5	2	Col E, 11-15	Grant	Sensitive Contractual and Competitive Information
41-11/5	21	Col E, 21-22	Grant	Sensitive Contractual and Competitive Information

Staff Work Paper	Page Number(s)	Lines(s)	Decision	Type of Information Classified Confidential
41-11/9-1	1	Col B, 7-10,16-19	Grant	Sensitive Contractual and Competitive Information
43-2, page 2	1	Col D-E, 7-20	Grant	Sensitive Competitive Business Information
44	1	8,11	Grant	Sensitive Competitive Business Information
44	2	Col D-E, 8-20	Grant	Sensitive Competitive Business Information
44-1	1-16	All	Grant	Sensitive Competitive Business Information
44-1/1	1-13	All	Grant	Sensitive Competitive Business Information
44-1/2	1-3	All	Grant	Sensitive Competitive Business Information
44-2	1	Col A, 9, 14,19,24,29, 34; Col B, 7-10;12-15, 17-20;22-25,27-30, 32-36,39-43; Col C-D, 7-10;12-15, 17-20;22-25,27-30, 32-36	Grant	Sensitive Competitive Business Information