

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Request for confidential classification of material provided pursuant to Audit No. 01-173-4-1, by Florida Power & Light Company.

DOCKET NO. 011362-EI
 ORDER NO. PSC-03-1138-CFO-EI
 ISSUED: October 13, 2003

ORDER GRANTING FLORIDA POWER & LIGHT COMPANY'S FIRST REQUEST FOR EXTENSION OF CONFIDENTIAL CLASSIFICATION OF MATERIAL OBTAINED PURSUANT TO AUDIT NO. 01-173-4-1

On October 15, 2001, pursuant to Section 366.093, Florida Statutes, and Rule 25-22.006, Florida Administrative Code, Florida Power & Light Company (FPL or company) filed a formal request for confidential classification of material obtained during Audit No. 01-173-4-1. By Order No. PSC-01-2334-CFO-EI, issued November 30, 2001, the documents set forth in the company's request were granted confidential classification for a period of 18 months.

On May 28, 2003, FPL filed its First Request for Extension of Confidential Classification Granted by Order No. PSC-01-2334-CFO-EI of Certain Material Obtained Pursuant to Audit Control No. 01-173-4-1. FPL states that the information for which it seeks continued confidential classification consists principally of FPL FiberNet, LLC's (FPL FiberNet) financial projections, operating results, contract and pricing information, and cost data, and FPL's internal audits and audit reports. Specifically, FPL requests that the information set forth below, contained in Document No. 12602-01 and Document No. 13089-01, be granted continued confidential classification.

Staff Work Paper No.	Page(s)	Line(s)
9	1-4	All
44	1	All
44-1	1	1-22
44-1	2-13	All
44-1/1	1-3	All
44-1/2	1-2	All

DOCUMENT NUMBER-DATE

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Staff Work Paper No.	Page(s)	Line(s)
44-1/3	1-2	All
44-1/4	1-2	All
44-1/5	1-2	All
44-1/6	1-2	All
44-1/7	1-2	All
44-1/8	1-2	All
44-1/9	1-2	All
44-1/10	1-2	All
44-1/11	1-2	All
44-1/12	1-2	All
44-1/13	1-2	All
44-1/14	1	1-2, 7-13
44-1/14-1	1	All
44-1/15	1	4-10, 12-13, 15-35
44-1/15	2	All
44-2/1	1	1-13
44-2/1-1	1	1-7, 9-12
44-2/1-1/1	1-2	All
44-2/1-2/1	1-2	All
44-2/1-2/1-1	1	All
44-2/2	1	1-11
44-2/2-1	1	1-11
44-2/2-1/1	1-2	All
44-2/3	1	1-15
44-2/3-1	1	1-7, 9-12

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Staff Work Paper No.	Page(s)	Line(s)
44-2/3-1/1	1-2	All
44-2/3-2	1	1-17
44-2/3-2	2	All
44-2/3-3	1	1-19
44-2/3-3	2-5	All
44-2/4	1	1-16
44-2/4	2	1-12
44-2/5	1	1-12
44-2/5-1	1	1-20
44-2/5-1	2-7	All
44-2/6	1	1-14
44-2/6	2	1-11
44-2/6	3-5	All
44-2/6-1	1	All
44-2/7	1	1-12
44-2/7	2	1-10
44-2/7	3	All
44-2/8	1	1-20
44-2/8-1	1	1-9
44-2/8-1	2	All
44-2/8-2	1	1-12
44-2/8-2	2	All
44-2/8-3	1-4	All
44-2/9	1	1-17
44-2/9	2	1-10

Staff Work Paper No.	Page (s)	Line (s)
44-2/9	3	All
44-2/10	1	1-18
44-2/10	2	1-12
44-2/10	3-4	All
44-3	1	All

FPL states that the information contained in Staff Work Paper No. 9, pages 1-4, concerns internal audit reports and internal audit controls. FPL states that the remainder of the documents listed above contain information relating to competitive interests, 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.

The company states that it treats all the material listed above as private. It further states that the information has not been disclosed and that no changes have occurred since the issuance of Order No. PSC-01-2334-CFO-EI to render the information no longer appropriate for confidential treatment. FPL requests an additional 18 months of confidential protection of this information.

Pursuant to Section 119.01, Florida Statutes, documents submitted to this Commission are public records. The only exceptions 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 found 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.

On October 6, 2003, a letter was sent to FPL from the Division of the Commission Clerk and Administrative Services, informing the company that the Commission is unable to locate Document No. 13089-01. It appears that the document may have been misplaced in the Division of Auditing and Safety's files. The Commission has since implemented several changes in how it accounts for documents, both here in Tallahassee and in the field. Moreover, there is no indication that any of the information contained in the document has been disclosed.

Although Document No. 13089-01 has been misplaced, I find that the information contained in Document No. 13089-01 and Document No. 12602-01, as set forth above, warrants continued confidential classification. Staff Work Paper No. 9, pages 1-4, contains the internal auditing controls and reports of the internal auditor. Furthermore, the remaining material reveals sensitive competitive information, the disclosure of which may give an unfair advantage

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to FPL's competitors. Accordingly, FPL's request for extension of confidential classification is hereby granted. The material listed above shall continue to have confidential protection for an additional 18 months.

FPL also requests that the material be returned to the utility once the information is no longer needed by the Commission. Audit reports and the related working papers, however, are retained by the Commission for a period of 25 years. If the company wishes to keep this information confidential after the additional 18 month period granted herein, it will need to seek another extension pursuant to Section 366.093(4), Florida Statutes.

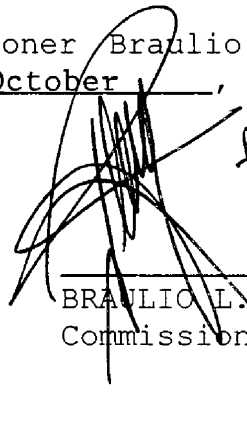
Based on the foregoing, it is

ORDERED by Commissioner Braulio L. Baez, as Prehearing Officer, that Florida Power & Light Company's First Request for Extension of Confidential Classification Granted by Order No. PSC-01-2334-CFO-EI of Certain Material Obtained Pursuant to Audit Control No. 01-173-4-1 is hereby 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.

By ORDER of Commissioner Braulio L. Baez, as Prehearing Officer, this 13th day of October, 2003.


for Commissioner Braulio Baez

BRAULIO L. BAEZ
Commissioner and Prehearing Officer

(S E A L)

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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; or (2) 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.