

BEFORE THE PUBLIC SERVICE COMMISSION

In re: Fuel and purchased power cost recovery clause with generating performance incentive factor.

DOCKET NO. 040001-EI
ORDER NO. PSC-04-0811-CFO-EI
ISSUED: August 19, 2004

ORDER GRANTING FLORIDA POWER & LIGHT COMPANY'S FIRST REQUEST FOR EXTENSION OF CONFIDENTIAL CLASSIFICATION GRANTED BY ORDER NO. PSC-02-1438-CFO-EI OF CERTAIN PORTIONS OF STAFF WORKING PAPERS IN AUDIT NO. 02-056-4-2 (DOCUMENT NOS. 07735-02 AND 08169-02)

This Order addresses the continuation of confidential treatment for certain portions of staff's working papers prepared during the Florida Power & Light Company (FPL) Fuel and Purchased Power Cost Recovery Clause Audit for the year ended December 31, 2001. By Order No. PSC-02-1438-CFO-EI the Commission initially granted confidential classification for the documents on October 21, 2002. On April 19, 2004, FPL requested that confidential treatment be extended for the information contained in Document Nos. 07735-02 and 08169-02. The documents were granted confidentiality for 18 months, and FPL now requests that confidentiality be extended for an additional 18 months. Confidential classification under Order No. PSC-02-1438-CFO-EI would have expired on April 21, 2004, but FPL's request for an extension was filed on April 19, 2004, so there was no lapse in confidential treatment.

FPL requests that the following work papers be granted continued confidential classification:

Staff Work Paper Number	Page(s)	Line(s)	Type of Information Classified Confidential
9	1-10	All	Internal auditing reports and controls
9-1	1	Col C, 1-51	Internal auditing reports and controls
9-1	2	Col C, 52-99	Internal auditing reports and controls
9-1	3	Col C, 1-5	Internal auditing reports and controls
9-1	4	Col C, 1-23	Internal auditing reports and controls
43-4/1-1	2	Col D, 4,7	Sensitive contractual and competitive business information
43-4/1-1	3	Col D, 6	Sensitive contractual and competitive business information
43-6	3	Col C, 3,10,22	Sensitive contractual and competitive business information
43-6	4	Col C, 1,9,32	Sensitive contractual and competitive business information

DOCUMENT NUMBER-DATE

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Staff Work Paper Number	Page(s)	Line(s)	Type of Information Classified Confidential
43-6	5	Col C, 2,4,7,11, 13,20	Sensitive contractual and competitive business information
43-6	6	Col C, 18,23,40	Sensitive contractual and competitive business information
45-1/1-1	1	All	Sensitive contractual and competitive business information
45-1/1-1/1	1	All	Sensitive contractual and competitive business information
45-1/1-2	1	Cols A-C, 14-36; Cols A-B, 39-47	Sensitive contractual and competitive business information
46-1	1	Col A, 6-29,32-34	Sensitive contractual and competitive business information
47-1/1-1	1	2,3; Cols A-C, 4-35; 36-38	Sensitive contractual and competitive business information
47-1/1-3	1	2-4; Cols A-C, 5-36; Col D, 36-39; 38-40	Sensitive contractual and competitive business information
47-2/1	1	2,3; Cols A-C, 4-33; Cols B-C, 34-35; 36-38	Sensitive contractual and competitive business information
47-2/2	1	5,7; Cols A-C, 8-9, Cols A,C, 10-12	Sensitive contractual and competitive business information

Staff Work Paper Number	Page(s)	Line(s)	Type of Information Classified Confidential
47-2/2-1	1	2-3; Cols A-C, 4-37; 38-40	Sensitive contractual and competitive business information
47-2/3	1	2-3; Cols A-D, 4-37; 38-40	Sensitive contractual and competitive business information
49C	1-3	All	Sensitive contractual and competitive business information
49-1/1-1	1	2,4; Cols A-B, 5; Col B, 9; 10-13,16A,17-21, 23; Cols A,C-D, 25-30; Col D, 31	Sensitive contractual and competitive business information
49-1/2	1	Cols B-J, 3-6;	Sensitive contractual and competitive business information
49-1/2	2	Cols B-N, 5-10	Sensitive contractual and competitive business information
49-1/2-1	1	4,6,8,9-20A; Cols B-E, 8-23; 24-26,28,30	Sensitive contractual and competitive business information

Staff Work Paper Number	Page(s)	Line(s)	Type of Information Classified Confidential
49-1/2-1	2	4,8-20A; Cols B-E, 8-23; 24-27A.30	Sensitive contractual and competitive business information
49-1/2-1	3	Cols A-E, 2-30	Sensitive contractual and competitive business information
49-1/2-1	4	Cols A-E, 2-33; Col I, 4,9,13,15,17, 19,21;	Sensitive contractual and competitive business information
49-1/2-1	5	Cols A-E, 2-35; Cols G-H, 7,11,18, 24,28,32;	Sensitive contractual and competitive business information
49-1/2-1	6	Cols A-E, 2-33; Cols H-I, 11,20, 22-23,25-26	Sensitive contractual and competitive business information
49-1/2-1	7	Cols A-E, 2-35; Col H, 17,19-21,23, 32,34; Col I, 19-21,23-26, 32-35	Sensitive contractual and competitive business information
49-1/2-1	8	Cols A-E, 2-35; Col H, 8,13,20, 27,32; Col I, 17-19,21, 23-25	Sensitive contractual and competitive business information

In its request, FPL states that the period of confidential classification granted by Order No. PSC-02-1438-CFO-EI will soon expire, and that all of the information covered by that Order warrants continued treatment as proprietary and confidential business information within the meaning of Section 366.093, Florida Statutes.

FPL maintains that the information for which an extension of confidential classification is requested is proprietary confidential business information relating to internal auditing controls and audit reports, as well as vendor-specific information, including contracts, contract prices and other contractual terms, and sensitive internal company procedures. In addition, FPL states that the material is intended to be and is treated by FPL as private, and has not been disclosed. Nothing has changed since the issuance of Order No. PSC-02-1438-CFO-EI to render the information stale or public, such that continued confidential treatment would not be appropriate, according to FPL.

As a result, FPL requests that the information identified in the Revised Justification Table and Order No. PSC-02-1438-CFO-EI be accorded confidential classification for an additional 18 month period. In addition, FPL requests that the information be returned to FPL as soon as it is no longer necessary for the Commission to conduct its business.

Upon review, it appears that the information discussed above continues to be proprietary confidential business information within the meaning of Section 366.093, Florida Statutes. Therefore, FPL's request for extension of confidential treatment of Document Nos. 07735-02 and 08169-02 is granted as set forth in the body of this Order.

Section 366.093(4), Florida Statutes, provides that any finding by the Commission that records contain proprietary confidential business information shall be effective for a period not to exceed 18 months, absent good cause shown. Accordingly, the information identified in Document Nos. 07735-02 and 08169-02 and described in the table above, shall be granted confidential classification for another 18 months starting from April 21, 2004, the date that confidentiality would have expired.

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


Based on the foregoing, it is

ORDERED by Commissioner Rudolph "Rudy" Bradley, as Prehearing Officer, that the information described in the body of this Order and contained in Document Nos. 07735-02 and 08169-02 shall be granted confidential classification for an additional 18 months from April 21, 2004, in the absence of a renewed request for confidentiality. It is further

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

By ORDER of Commissioner Rudolph "Rudy" Bradley, as Prehearing Officer, this 19th day of August, 2004.



RUDOLPH "RUDY" BRADLEY
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; 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.