

BEFORE THE PUBLIC SERVICE COMMISSION

In re: Request for confidential classification of workpapers from staff audit of non-monitored transportation administration charge for year ending 12/31/03, Audit Control No. 04-015-4-1, by Florida Public Utilities Company.	DOCKET NO. 040494-GU ORDER NO. PSC-04-0963-CFO-GU ISSUED: October 1, 2004
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ORDER GRANTING REQUEST FOR CONFIDENTIAL TREATMENT OF
AUDIT WORKPAPER DOCUMENTS 05350-04 AND 05922-04

Background

On May 3, 2004, copies of certain portions of staff's working papers obtained or prepared during the "Florida Public Utilities Company, Non-Monitored Transportation Administration Cost Recovery Factors Audit for the Historical Year Ended December 31, 2003" were delivered to Florida Public Utilities Company (FPUC) at the audit exit conference. The utility requested that these materials be temporarily exempted from public access in accordance with the provisions of Rule 25-22.006(3)(a)2, Florida Administrative Code (F.A.C.).

On May 7, 2004, staff filed document 05350-04 consisting of those specified portions of the staff audit working papers. On May 24, 2004, FPUC filed a request pursuant to Section 366.093, Florida Statutes, and Rule 25-22.006(3)(a) 2 and (4), F.A.C., that selected portions of the working papers prepared by the staff during the audit receive confidential classification. The utility's request included redacted copies for public inspection (Document 05921-04) and highlighted copies (Document 05922-04). Documents 05350-04 and 05922-04 are currently treated by the Division of the Commission Clerk and Administrative Services as confidential pending resolution of FPUC's request for confidential classification.

Pursuant to Section 119.07, Florida Statutes, documents submitted to this Commission are public records. The only exceptions to this law are specific statutory exemptions and exemptions granted by government agencies pursuant to specific statutory provisions. Subsections 366.093(3) and 366.093(3)(e) provide the following exceptions:

- 3) 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

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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.

According to Section 366.093, Florida Statutes, and Rule 25-22.006, F.A.C., the utility has the burden of demonstrating that materials qualify for confidential classification. The utility must meet this burden by demonstrating that the information is proprietary confidential business information, the disclosure of which will cause the utility, the provider of the information or the ratepayer harm.

Discussion

The materials for which FPUC seeks confidential classification fall into the following three categories:

1. Recalculation of revenues disclosing specific customer account information, customer usage and billing information.

FPUC asserts that disclosure of customer lists would cause harm to the customers and the Company by disclosing competitively sensitive information.¹

2. Transportation service customer list.

FPUC asserts that information on this list consists of names, account numbers, locations and usage data. FPUC notes that disclosing this type of information would be harmful to the competitive business of the utility, its customers and providers of the service.

3. Copies of individual customer invoices.

FPUC states that this information reports customer locations, account numbers, usage, billed amounts, pool manager and charges. FPUC notes that disclosure of this competitively sensitive information would impair the company's competitive business and harm the ratepayers.

FPUC also asserts that the information described above is treated by the Company as proprietary and confidential and is not disclosed to the public.

¹ The utility also asserts that the information should be treated as a protected trade secret. The disposition herein of the argument stated above renders consideration of this additional argument unnecessary.

Section 366.093, Florida Statutes, provides that confidential classification may be granted to material, the disclosure of which would harm the provider of the information or the ratepayers.

Staff Work Paper Number	Page(s)	Line(s)	Disposition	Type of Information Classified Confidential
41-2				business information
41-2/1	1 to 12	1-293	Grant	Sensitive competitive business information
41-2/1	13	1-23	Grant	Sensitive competitive business information
41-2/1	14	1-20	Grant	Sensitive competitive business information
41-2/1	15	1-22	Grant	Sensitive competitive business information
41-2/1	16	1-22	Grant	Sensitive competitive business information
41-2/1	17	1-22	Grant	Sensitive competitive business information
41-2/1	18	1-25	Grant	Sensitive competitive business information
41-2/1	19	1-24	Grant	Sensitive competitive business information
41-2/1	20	1-24	Grant	Sensitive competitive business information
41-2/1	21	1-23	Grant	Sensitive competitive business information
41-2/1	22	1-23	Grant	Sensitive competitive business information
41-2/1	23	1-23	Grant	Sensitive competitive business information
41-2/1	24	1-22	Grant	Sensitive competitive business information
41-2/1	25	1-25	Grant	Sensitive competitive business information

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In view of the above, it is

ORDERED by Commissioner Charles M. Davidson, as Prehearing Officer, that the Request of Florida Public Utilities Company for Confidential Classification of Audit Workpapers, as set out above, is granted. It is further

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

By ORDER of Commissioner Charles M. Davidson, as Prehearing Officer, this 1st day of October, 2004.



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.