

BEFORE THE PUBLIC SERVICE COMMISSION

In re: Request for confidential classification of documents provided in connection with audit of natural gas surveillance report for period ending December 31, 2005 (No. 06-170-4-1), by Florida Public Utilities Company.

DOCKET NO. 060629-GU
ORDER NO. PSC-07-0031-CFO-GU
ISSUED: January 9, 2007

ORDER GRANTING REQUEST FOR CONFIDENTIAL CLASSIFICATION OF
DOCUMENT NOS. 07922-06 AND 08499-06

On September 15, 2006, Florida Public Utilities Company (FPUC) filed a request for confidential classification for certain portions of the working papers prepared by staff during the audit titled "Florida Public Utilities Company Earnings Surveillance Audit for the 12 Months Ended December 31, 2005."

Florida law presumes that documents submitted to governmental agencies shall be public records. The only exceptions to this presumption are the specific statutory exemptions provided in the law and exemptions granted by governmental agencies pursuant to the specific terms of a statutory provision. This presumption is based on the concept that government should operate in the "sunshine." Rule 25-22.006(4)(c), Florida Administrative Code, provides that it is the Company's burden to demonstrate that the documents fall into one of the statutory examples set out in Section 366.093, Florida Statutes, or to demonstrate that the information is proprietary confidential information, the disclosure of which will cause the Company or its ratepayers harm.

Section 366.093(3), Florida Statutes, in pertinent part, provides:

The term "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 public. Proprietary confidential business information includes but is not limited to:

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

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

Review of the materials listed in Attachment I for which confidential classification is sought indicates that there are three categories of documents at issue:

- 1) Notes concerning internal auditing matters reported within the company's audit committee minutes.
- 2) Notes concerning sensitive competitive business information discussed within the company's board of directors minutes.
- 3) Report of the internal auditors.

Therefore, it is consistent with Section 366.093(3)(b) to treat the documents in Categories 1 and 3 as confidential, and consistent with Section 366.093(3)(e) to treat the documents in Category 2 as confidential. The documents in Categories 1 and 3 directly pertain to internal auditing controls or the reports of internal auditors.

Further, the documents in Category 2 involving FPUC's business plans and strategies could, if released, provide insight to the possible activities of the Company and would be of value to potential competitors. See Order Nos. PSC-93-1631-CFO-EI; PSC-04-0101-CFO-GU.

Accordingly, it appears that the materials listed in Attachment I meet the definitions in Section 366.093(3)(b) and (e), Florida Statutes, and shall be treated as confidential.

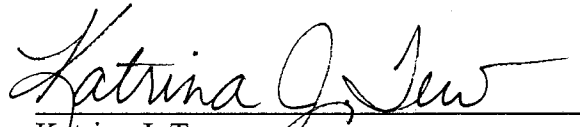
Based on the foregoing, it is

ORDERED by Commissioner Katrina J. Tew, as Prehearing Officer, that Florida Public Utilities Company's Request for Confidential Classification of Document Nos. 07922-06 and 08499-06, as set out in Attachment I, is granted. It is further

ORDERED that pursuant to Section 366.093, Florida Statutes, and Rule 25-22.006, Florida Administrative Code, any confidentiality granted to the documents specified herein shall expire eighteen (18) months from the date of issuance of the 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.

By Order of Commissioner Katrina J. Tew, as Prehearing Officer, this 9th day
of January, 2007.


Katrina J. Tew
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 I

Documents 07922-06 and 08499-06					
Working Paper Number	Description	Page(s)	Line(s)	Disposition	Type of Information Classified Confidential
WP 8 (Category 1)	Audit Committee Notes	1	1-6	Grant	Internal Auditing Controls and Reports of Internal Auditors
WP 8 (Category 2)	Board of Directors Notes	4	1-4	Grant	Sensitive Competitive Business Information
WP 9 (Category 3)	Internal Audit	1-11	All	Grant	Internal Auditing Controls and Reports of Internal Auditors