

BEFORE THE PUBLIC SERVICE COMMISSION

In re: Petition for issuance of a storm recovery financing order, by Florida Power & Light Company. | DOCKET NO. 060038-EI  
ORDER NO. PSC-07-1005-CFO-EI  
ISSUED: December 18, 2007

ORDER GRANTING FLORIDA POWER & LIGHT'S  
REQUEST FOR CONFIDENTIAL CLASSIFICATION OF PORTIONS OF  
AUDIT CONTROL NO. 05-292-4-1 (DOCUMENT NOS. 01397-06,  
01398-06, 01399-06, 01400-06, 01696-06, 02574-06, AND 02834-06)

On March 22, 2006, pursuant to Section 366.093, Florida Statutes, and Rule 25-22.006, Florida Administrative Code, Florida Power & Light Company ("FPL") filed a request for confidential classification of portions of staff's audit report and working papers obtained or prepared during the "Florida Power & Light Review of 2004/2005 Storm Damage Cost Recovery for the Year Ended December 31, 2005," Audit No. 05-292-4-1 (Document Nos. 01397-06, 01398-06, 01399-06, 01400-06, 01696-06, 02574-06, and 02834-06). On May 25, 2006, all information containing social security numbers was returned to the utility.

Section 366.093(1), Florida Statutes, provides that "any records received by the commission which are shown and found by the commission to be proprietary confidential business information shall be kept confidential and shall be exempt from [the Public Records Act]." Section 366.093(3), Florida Statutes, defines proprietary confidential business information as information that is intended to be and is treated by the company as private, in that disclosure of the information would cause harm to the company's ratepayers or business operations, and has not been voluntarily disclosed to the public. Section 366.093(3)(b),(d),(e) and (f), Florida Statutes, provides that proprietary confidential business information includes, but is not limited to "[i]nternal auditing controls and reports of internal auditors;" "[i]nformation 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;" "[i]nformation relating to competitive interests, the disclosure of which would impair the competitive business of the provider of the information;" and "[e]mployee personnel information unrelated to compensation, duties, qualifications, or responsibilities."

FPL contends that the highlighted information contained in portions of staff's audit report and work papers prepared in connection with the Storm Damage Cost Recovery Audit falls within one or more of these categories and thus constitutes proprietary confidential business information entitled to protection under Section 366.093, Florida Statutes, and Rule 25-22.006, Florida Administrative Code. FPL states that this information is intended to be and is treated by FPL as private and has not been publicly disclosed.

FPL requests that the following information be granted confidential classification:

DOCUMENT NUMBER-DATE

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FPSC-COMMISSION CLERK

Staff Work Paper Number	Description	Page(s)	Line(s)	Type of Information
Documents 01397-06 and 02574-06				
1	Audit Report	1	All	Sensitive contractual and competitive business information
Documents 01397-06, 02834-06 and 02574-06				
1	Audit Report	3	2-5	Internal auditing controls and reports of internal auditors
Documents 01397-06 and 02574-06				
1	Audit Report	4	2-17	Internal auditing controls and reports of internal auditors
Documents 01398-06 and 02574-06				
2-5/1	Bond Schedule	1	Col. F	Sensitive competitive business information
2-5/1	Bond Schedule	2	All	Sensitive competitive business information
9	Internal Audit Notes	1-3	All	Internal auditing controls and reports of internal auditors
12-5/3	Storm Cost	1	Cols S-V	Sensitive contractual information
Documents 01398-06 and 02574-06				
22-1/1	Estimates Dune Restoration	1	Col C, 3-9	Sensitive contractual information
22-1/1	Estimates Dune Restoration	2	Col B, 7; Col C, 7-9	Sensitive contractual information
22-1/1	Estimates Dune Restoration	3	Cols G-H, 3-11; 12-15	Sensitive contractual information
22-1/1	Estimates Dune Restoration	5	Cols D-E	Sensitive contractual information
22-2	Legal Accrual Ledger	1	All	Sensitive contractual and competitive business information
22-3/1	Distribution Contractor Accrual	1-2	Cols B-P	Sensitive contractual and competitive business information
22-4/1-2	Martin Repair Accrual	3	11,29	Sensitive contractual information
22-4/1-2	Martin Repair Accrual	4	8,16,23,29	Sensitive contractual information
22-4/1-2	Martin Repair Accrual	5	9,15-28	Sensitive contractual information
22-4/1-2	Martin Repair Accrual	6	9,14-24	Sensitive contractual information

Staff Work Paper Number	Description	Page(s)	Line(s)	Type of Information
22-4/1-2	Martin Repair Accrual	8	10-12,18	Sensitive contractual information
22-4/1-2	Martin Repair Accrual	9	13,27	Sensitive contractual information
22-4/1-2	Martin Repair Accrual	10	2,9-10	Sensitive contractual information
22-4/1-2	Martin Repair Accrual	11	3,6	Sensitive contractual information
22-4/1-2	Martin Repair Accrual	12	3-8,14	Sensitive contractual information
22-4/1-2	Martin Repair Accrual	13	6-12	Sensitive contractual information
22-4/1-2	Martin Repair Accrual	14	15	Sensitive contractual information
22-4/1-2	Martin Repair Accrual	16	3-4,10	Sensitive contractual information
22-4/1-2	Martin Repair Accrual	23	6-7	Sensitive contractual information
22-4/1-2	Martin Repair Accrual	24	36	Sensitive contractual information
22-4/1-2	Martin Repair Accrual	25	13	Sensitive contractual information
22-4/1-2	Martin Repair Accrual	27	5	Sensitive contractual information
22-4/1-2	Martin Repair Accrual	28	8-9,35	Sensitive contractual information
Documents 01398-06 and 02574-06				
22-4/1-2	Martin Repair Accrual	29	14,28,31,34	Sensitive contractual information
22-4/1-2	Martin Repair Accrual	30	4,7,11,14,15	Sensitive contractual information
22-4/1-2	Martin Repair Accrual	32	6-7	Sensitive contractual information
22-4/1-2	Martin Repair Accrual	33	36	Sensitive contractual information
22-4/1-2	Martin Repair Accrual	34	13	Sensitive contractual information
22-4/1-2	Martin Repair Accrual	36	4	Sensitive contractual information
22-4/1-2	Martin Repair Accrual	37	8,9,35	Sensitive contractual information
22-4/1-2	Martin Repair Accrual	38	14,28,31,34	Sensitive contractual information
22-4/1-2	Martin Repair Accrual	39	4,7,11,14,15	Sensitive contractual information
22-4/1-2	Martin Repair Accrual	40	7,9	Sensitive contractual information
22-4/1-2	Martin Repair Accrual	42	8-9,35	Sensitive contractual information

Staff Work Paper Number	Description	Page(s)	Line(s)	Type of Information
22-4/1-2	Martin Repair Accrual	44	13	Sensitive contractual information
22-4/1-2	Martin Repair Accrual	45	2,12,17-18	Sensitive contractual information
Documents 01696-06 and 02574-06				
22A/3	Audit Finding	1	All	Sensitive contractual and competitive business information
Documents 01398-06 and 02574-06				
25-1/1	Audit Finding	1	8-11	Sensitive competitive business information
25-1/6	Procedures to repair/replace poles	1	5-17	Sensitive competitive business information
25-1/6	Procedures to repair/replace poles	2	All	Sensitive competitive business information
25-1/6-1	Lesson on Setting/removing poles	1-40	All	Sensitive competitive business information
25-1/7	Procedures to record time	1-3	All	Sensitive competitive business information
27	Summary of Insurance procedures	1	32-34,37-41	Sensitive competitive business information
27-1	Insurance Accrual	1	Cols G,J, 35-38	Sensitive competitive business information
27-1	Insurance Accrual	2	Col G, 15	Sensitive competitive business information
27-1	Insurance Accrual	3	8,26	Sensitive competitive business information
27-1	Insurance Accrual	7	Col G, 1-4,12-13	Sensitive competitive business information
Documents 01398-06 and 02574-06				
27-3	Detail of Insurance Accrual	1	6-12	Sensitive competitive business information
43	Summary of Results of CV Sample	1	34-37	Sensitive contractual information
43-3	Cash voucher	1	Col D, 10-17; Col G, 10-18	Sensitive contractual information
43-3	Cash voucher	3	Lines 3-4	Sensitive contractual information
43-3	Cash voucher	4	Cols E-F, 10-33	Sensitive contractual information
43-3	Cash voucher	6	6,7	Sensitive contractual information
43-3	Cash voucher	7	15,16	Sensitive contractual information
43-4	Purchase orders	1-61	All	Sensitive contractual information
Documents 01400-06 and 02574-06				

Staff Work Paper Number	Description	Page(s)	Line(s)	Type of Information
43-6	Summary of Advertising Vouchers	2	4-7	Internal auditing controls and reports of internal auditors
43-6/1-3	Advertising Voucher	2	7-17	Sensitive contractual and competitive business information
43-6/1-4	Advertising Voucher	2	7-17	Sensitive contractual and competitive business information
43-6/1-6	Advertising Voucher	2	6-16	Sensitive contractual and competitive business information
43-6/1-7	Advertising Voucher	2	6-16	Sensitive contractual and competitive business information
43-6/1-8	Advertising Voucher	2	5-8,13-14	Sensitive contractual and competitive business information
43-6/1-8	Advertising Voucher	3	1-4,20-28	Sensitive contractual and competitive business information
43-6/1-9	Advertising Voucher	3	5-8,13-18	Sensitive contractual and competitive business information
43-6/1-13	Advertising Voucher	1	15,18,22,25,28,32,35	Sensitive contractual and competitive business information
43-6/1-18	Advertising Voucher	2	6-16	Sensitive contractual and competitive business information
43-6/1-19	Advertising Voucher	2	6-16	Sensitive contractual and competitive business information
Documents 01400-06 and 02574-06				
43-6/1-19	Advertising Voucher	5	6-16	Sensitive contractual and competitive business information
43-6/1-19	Advertising Voucher	9	6-16	Sensitive contractual and competitive business information
43-7/1	Outside Crew Cash Voucher	1	13-16,20	Sensitive contractual and competitive business information
43-7/1	Outside Crew Cash Voucher	3	13-16,20	Sensitive contractual and competitive business information
43-7/1	Outside Crew Cash Voucher	5	12-19	Sensitive contractual and competitive business information

Staff Work Paper Number	Description	Page(s)	Line(s)	Type of Information
43-7/1	Outside Crew Cash Voucher	7	14-17,19,21	Sensitive contractual and competitive business information
43-7/1	Outside Crew Cash Voucher	11	11-16,18	Sensitive contractual and competitive business information
43-7/1	Outside Crew Cash Voucher	13	11-14,15-18	Sensitive contractual and competitive business information
43-7/1	Outside Crew Cash Voucher	14	12-13,19	Sensitive contractual and competitive business information
43-7/1	Outside Crew Cash Voucher	17	11-14	Sensitive contractual and competitive business information
43-7/1	Outside Crew Cash Voucher	19	12-15	Sensitive contractual and competitive business information
43-7/1	Outside Crew Cash Voucher	21	12-13	Sensitive contractual and competitive business information
43-8	Telephone vouchers	3	13,21-27,41	Sensitive competitive business information
43-9/1	Lodging Vouchers	5	Cols C, G	Sensitive contractual and competitive business information
43-9/1	Lodging Vouchers	6	Cols C,G,H	Sensitive contractual and competitive business information
43-9/1	Lodging Vouchers	7	Cols C,F	Sensitive contractual and competitive business information
43-9/1	Lodging Vouchers	8	16,18,20	Sensitive contractual and competitive business information
Documents 01400-06 and 02574-06				
43-11	CD 4a for Request 4	Disc	All	Sensitive employee, contractual and competitive business information
43-11	CD 4b for Request 4	Disc	All	Sensitive employee, contractual and competitive business information
43-11	CD 4c for Request 4	Disc	All	Sensitive employee, contractual and competitive business information

Staff Work Paper Number	Description	Page(s)	Line(s)	Type of Information
43-11/1	CD for Request 25	Disc	All electronic Files except the following files:  50932.Katrina MiamiPUB8.30;  50934FPL.Katrina ThankPUB;  50934FPL.KatrinaTH K SPAN_PUB;  50935FPL.KatrinaS PUB8.30;  FPL-POST2;  FPL-POST4;  FPL-PRE1;  FPL-PRE2;  Updated Katrina Radio Messaging 9.1	Sensitive contractual and competitive business information
43-11/2	CD31A for request 35	Disc	All	Sensitive contractual and competitive business information
43-11/2	CD31B for request 35	Disc	All	Sensitive contractual and competitive business information
43-11/2	CD31C for request 35	Disc	All	Sensitive contractual and competitive business information
Documents 01399-06 and 02574-06				
47	Vehicle	1	4-8,13-14,19-25	Sensitive contractual information

FPL witnesses Edward S. Bowman, Robert H. Adams, Katherine Monserrat, D. K. White, and Frank V. Isabella assert that sensitive contractual and competitive business information is contained in the audit materials titled: "Audit Report," "Legal Accrual Detail," "Audit Finding," "Distribution Contractor Accrual," "Outside Crew Cash Voucher," "Advertising Voucher," "Lodging Vouchers," "CD for Request 25," and "CD 31a,b,c for Request 35." FPL contends that this information is proprietary confidential business information

containing contractual vendor data, such as pricing, and other terms, the disclosure of which would impair the efforts of FPL to contract for goods and services on favorable terms to the detriment of FPL and its customers. FPL further asserts that disclosure of this information would impair its competitive business.

FPL witness Antonio Maceo, Manager of Internal Auditing, affirms by affidavit that certain sensitive information concerning Internal Audit Reports is contained in the audit material titled: "Audit Report," "Internal Audit Notes," and "Summary of Advertising Vouchers." FPL asserts the information should be granted confidential classification pursuant to Section 366.093(3)(b), Florida Statutes, in that the material pertains to internal audit reports.

FPL witness Kathy Beilhart, Assistant Treasurer in the Finance Division, affirms that the audit material titled "Bond Schedule, page 1" is entitled to confidential treatment in that the information constitutes sensitive competitive business information and is also a trade secret. According to the witness, the documents or materials are proprietary confidential business information containing or constituting competitively sensitive data. The witness further asserts that the disclosure of this information would impair the competitive business of the provider of the information.

FPL witnesses Wayne Olson, Robert H. Adams, Jr., Keith Kennedy, and Kenneth Getchel affirm that certain of FPL's sensitive competitive business information is contained in the audit material titled: "Bond Schedule, Page 2," "Audit Finding," "Procedures to Repair/Replace Poles," "Lesson on Setting/Removing Poles," "Procedures to Record Time," "Summary of Insurance Proceeds," "Insurance Accrual," "Detail of Insurance Accrual," and "Telephone Vouchers." According to the witnesses, the information should be granted confidential classification because it contains or constitutes contractual vendor data, such as pricing and other terms, the disclosure of which would impair the efforts of FPL to contract for good or services on favorable terms in the future to the detriment of FPL and its customers.

FPL witnesses Christopher Trump, W. E. Gwinn, Pamela Sonnelitter, Robert H. Adams, Jr., and Richard R. Thomas affirm that the documents titled: "Storm Cost," "Estimates Dune Restoration," "Martin Repair Accrual," "Summary of Results of CV Sample," "Cash Voucher," "Purchase Orders," and "Vehicle" contain or constitute sensitive contractual information. According to FPL, the documents or materials contain or constitute contractual vendor data, such as pricing and other terms, the disclosure of which would impair the efforts of FPL to contract for goods or services on favorable terms in the future to the detriment of FPL and its customers. FPL concludes that this information should be granted confidential classification.

FPL witness Frank V. Isabella asserts that certain employee personnel information unrelated to compensation, duties, qualifications, or responsibilities are contained in "Working Paper 43-11" which is comprised of "Answers to auditor inquiries 4a, 4b, and 4c for request 4." Witness Isabella states that disclosure of this information would impair the employees' personal right to privacy. The witness also asserts that the information is sensitive contractual and competitive information, the disclosure of which could impair the competitive business of the provider of the information.

Upon review, it appears that the above-referenced information satisfies the criteria set forth in Section 366.093(3), Florida Statutes, for classification as proprietary confidential business information and shall be treated as confidential. While it is not clear whether any of this information constitutes "trade secrets" as that term is used in Section 366.093(3)(a), Florida Statutes, the information does constitute "[i]nternal auditing controls and reports of internal auditors;" "[i]nformation 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;" "[i]nformation relating to competitive interests, the disclosure of which would impair the competitive business of the provider of the information;" or "[e]mployee personnel information unrelated to compensation, duties, qualifications, or responsibilities." Thus, this information is granted confidential classification.

Pursuant to Section 366.093(4), Florida Statutes, the information for which confidential classification is granted herein shall remain protected from disclosure for a period of 18 months from the date of issuance of this order. At the conclusion of the 18 month period, the confidential information will no longer be exempt from Section 119.07(1), Florida Statutes, unless FPL or another affected person shows, and the Commission finds, that the records continue to contain proprietary confidential business information.

Based on the foregoing, it is

ORDERED by Chairman Lisa Polak Edgar, as Prehearing Officer, that Florida Power & Light Company's Request for Confidential Classification of Document Nos. 01397-06, 01398-06, 01399-06, 01400-06, 01696-06, 02574-06, and 02834-06 is granted. It is further

ORDERED that the information in Document Nos. 01397-06, 01398-06, 01399-06, 01400-06, 01696-06, 02574-06, and 02834-06 for which confidential classification has been granted shall remain protected from disclosure for a period of 18 months from the date of issuance of this order. It is further

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

By ORDER of Chairman Lisa Polak Edgar, as Prehearing Officer, this 18th day of December, 2007.

  
LISA POLAK EDGAR  
Chairman and Prehearing Officer

( S E A L )

LCB/pz

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.