

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-07-1006-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.
02260-06, 02261-06, 02262-06, 02989-06, AND 05131-06)

On April 3, 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 Supplemental Review of 2004/2005 Storm Damage Cost Recovery for the Year Ended December 31, 2005, Audit No. 05-292-4-1 (Document Nos. 02260-06, 02261-06, 02262-06, and 02989-06). On June 13, 2006, FPL revised its filing to include an additional work paper (Document No. 05131-06). In its filing, FPL had included social security number information which was returned to the utility in May and June of 2006.

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's Request

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.

DOCUMENT NUMBER-DATE

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FPSC-COMMISSION CLERK

FPL requests that the following information be granted confidential classification:

Staff Work Paper Number	Description	Page(s)	Line(s)	Type of Information Classified Confidential
Documents 02260-06 and 02989-06				
1	Audit Report Page 4 Finding No. 1	1	All	Internal Auditing Controls and Reports of Internal Auditors
Documents 02261-06 and 02989-06				
9	Internal Audit Notes	1-2	All	Internal Auditing Controls and Reports of Internal Auditor
21A	Internal Audit Test of Prior Notes	1-2	All	Internal Auditing Controls and Reports of Internal Auditor
21	Prior Audit Findings	1-2	All	Internal Auditing Controls and Reports of Internal Auditor
21-1	Adjustments	1	All	Internal Auditing Controls and Reports of Internal Auditor
21-1/1	Responses to Internal Audit Adjustments	1-2	All	Internal Auditing Controls and Reports of Internal Auditor
21-1/1-1	Internal Audit Adjustments for One Contractor	1	1-4; Col A	Sensitive Contractual and Competitive Business Information
21-1/1-1	Internal Audit Adjustments for One Contractor	2	1	Sensitive Contractual and Competitive Business Information
21-1/1-2	Internal Audit Adjustments for One Contractor	2	1-3	Sensitive Contractual and Competitive Business Information
21-1/1-3	Internal Audit Adjustments for One Contractor	1	1-5	Sensitive Contractual and Competitive Business Information
21-1/1-5	Internal Audit Adjustments for One Contractor	1	4-6,24,30	Sensitive Contractual and Competitive Business Information
21-1/1-5	Internal Audit Adjustments for One Contractor	2	13-14	Sensitive Contractual and Competitive Business Information
21-1/1-5	Internal Audit Adjustments for One Contractor	3	22-28,32	Sensitive Contractual and Competitive Business Information
21-1/1-6	Internal Audit Adjustments for One Contractor	1	11-13,16-20,28-30	Sensitive Contractual and Competitive Business Information
21-1/1-6	Internal Audit Adjustments for One Contractor	2	13-14,17,24,29-34,45	Sensitive Contractual and Competitive Business Information

Staff Work Paper Number	Description	Page(s)	Line(s)	Type of Information Classified Confidential
21-1/1-7	Internal Audit Adjustments for One Contractor	1	31-33	Sensitive Contractual and Competitive Business Information
21-1/1-7	Internal Audit Adjustments for One Contractor	2	10,19-21,23-25	Sensitive Contractual and Competitive Business Information
Documents 02261-06 and 02989-06				
21-1/1-7	Internal Audit Adjustments for One Contractor	3	16,25-27,29-31	Sensitive Contractual and Competitive Business Information
21-1/1-8	Internal Audit Adjustments for One Contractor	1	1-5	Sensitive Contractual and Competitive Business Information
21-1/1-8	Internal Audit Adjustments for One Contractor	2	13-14,16-17,22-26,30-35	Sensitive Contractual and Competitive Business Information
21-1/1-8	Internal Audit Adjustments for One Contractor	3	1-4	Sensitive Contractual and Competitive Business Information
21-1/1-9	Internal Audit Adjustments for One Contractor	1	15-18,22,24,27-30,33-35	Sensitive Contractual and Competitive Business Information
21-1/1-9	Internal Audit Adjustments for One Contractor	2	15-18,22,24,27-30	Sensitive Contractual and Competitive Business Information
21-1/1-10	Internal Audit Adjustments for One Contractor	1	1-6	Sensitive Contractual and Competitive Business Information
21-1/1-10	Internal Audit Adjustments for One Contractor	2	1-2	Sensitive Contractual and Competitive Business Information
21-1/1-10	Internal Audit Adjustments for One Contractor	3	1-10	Sensitive Contractual and Competitive Business Information
21-1/1-10	Internal Audit Adjustments for One Contractor	4	1-26	Sensitive Contractual and Competitive Business Information
21-1/1-10	Internal Audit Adjustments for One Contractor	5	1-14	Sensitive Contractual and Competitive Business Information
21-1/1-10	Internal Audit Adjustments for One Contractor	6	1-8	Sensitive Contractual and Competitive Business Information
21-1/1-10	Internal Audit Adjustments for One Contractor	7	1	Sensitive Contractual and Competitive Business Information
23-1/2-1	Wilma EAC 662 Detail	1	12-77	Sensitive Contractual and Competitive Business Information

Staff Work Paper Number	Description	Page(s)	Line(s)	Type of Information Classified Confidential
24-1/2-2	Detail for Power Supply Katrina	1	11-25	Sensitive Contractual and Competitive Business Information
24-1/3	Katrina Estimates	1	2-57	Sensitive Contractual and Competitive Business Information
24-1/3-1	Katrina EAC 660 and 662	1	1-6	Sensitive Contractual and Competitive Business Information
Documents 02261-06 and 02989-06				
24-1/3-1	Katrina EAC 660 and 662	2-6	Col A-C	Sensitive Contractual and Competitive Business Information
25-2/1	Request 7-2 Response	1	9,11,26-28	Sensitive Contractual and Competitive Business Information
25-2/1	Request 7-2 Response	3	20-21,24,26-28,31,41-45	Sensitive Contractual and Competitive Business Information
25-2/1-1	BID	1	13-14,23	Sensitive Contractual and Competitive Business Information
25-2/1-2	BID	1	11	Sensitive Contractual and Competitive Business Information
25-2/1-2	BID	2	10,11	Sensitive Contractual and Competitive Business Information
25-2/1-2	BID	3	15	Sensitive Contractual and Competitive Business Information
25-2/1-3	BID	2	15	Sensitive Contractual and Competitive Business Information
25-2/1-3	BID	9	15	Sensitive Contractual and Competitive Business Information
25-2/1-3	BID	10	3-5	Sensitive Contractual and Competitive Business Information
25-2/1-4	BID	1	25-27	Sensitive Contractual and Competitive Business Information
25-2/1-4	BID	4	11-16,20,25	Sensitive Contractual and Competitive Business Information

Staff Work Paper Number	Description	Page(s)	Line(s)	Type of Information Classified Confidential
25-2/1-4	BID	5-7	3-8,12,17	Sensitive Contractual and Competitive Business Information
25-2/1-4	BID	8-9	3-6,9-12	Sensitive Contractual and Competitive Business Information
25-2/1-4	BID	10	3-8,10,14,17-20	Sensitive Contractual and Competitive Business Information
25-2/1-4	BID	11	9-18,20-21	Sensitive Contractual and Competitive Business Information
25-2/1-4	BID	12	5,6,17,23	Sensitive Contractual and Competitive Business Information
Documents 02261-06 and 02989-06				
25-2/1-4	BID	18	15	Sensitive Contractual and Competitive Business Information
25-2/1-4	BID	20	14-20	Sensitive Contractual and Competitive Business Information
25-2/1-4	BID	21	1	Sensitive Contractual and Competitive Business Information
25-2/1-5	BID	2	11-16,20,25	Sensitive Contractual and Competitive Business Information
25-2/1-5	BID	3-5	3-8,12,17	Sensitive Contractual and Competitive Business Information
25-2/1-5	BID	6-7	3-6,9-12	Sensitive Contractual and Competitive Business Information
25-2/1-5	BID	8	4-9,11,13,16-20	Sensitive Contractual and Competitive Business Information
25-2/1-5	BID	9	9-19,21-23	Sensitive Contractual and Competitive Business Information
25-2/1-5	BID	10	5-6,17,23	Sensitive Contractual and Competitive Business Information
25-2/1-5	BID	16	15	Sensitive Contractual and Competitive Business Information
25-2/1-6	BID	8	1-12	Sensitive Contractual and Competitive Business Information

Staff Work Paper Number	Description	Page(s)	Line(s)	Type of Information Classified Confidential
25-2/1-6	BID	16	15	Sensitive Contractual and Competitive Business Information
25-2/1-7	BID	2	13,19-20,22,24-26	Sensitive Contractual and Competitive Business Information
25-2/1-7	BID	3	8,11,19-20,31	Sensitive Contractual and Competitive Business Information
25-2/1-7	BID	4	5	Sensitive Contractual and Competitive Business Information
25-2/1-7	BID	10	15	Sensitive Contractual and Competitive Business Information
25-2/1-7	BID	13	10-16	Sensitive Contractual and Competitive Business Information
Documents 02261-06 and 02989-06				
25-2/2	Cost Estimate	1	5-7,9-13	Sensitive Contractual and Competitive Business Information
25-2/2	Cost Estimate	2	Cols F-N	Sensitive Contractual and Competitive Business Information
25-2/2	Cost Estimate	3-4	Cols F-H	Sensitive Contractual and Competitive Business Information
25-2/2	Cost Estimate	5	Cols E-L	Sensitive Contractual and Competitive Business Information
25-2/2	Cost Estimate	6	Cols E-H	Sensitive Contractual and Competitive Business Information
25-2/2	Cost Estimate	7	Col D	Sensitive Contractual and Competitive Business Information
25-2/2	Cost Estimate	8	Cols D-J	Sensitive Contractual and Competitive Business Information
25-2/2	Cost Estimate	9	5-6,8-11,16-20	Sensitive Contractual and Competitive Business Information
25-3/3-1	Reserve Labor	1	Cols J,Q-W	Sensitive Contractual and Competitive Business Information

Staff Work Paper Number	Description	Page(s)	Line(s)	Type of Information Classified Confidential
25-4/1	Insulation	1	4,7	Sensitive Contractual Information
25-4/1-1	Cost Tracking	1	24,28-30	Sensitive Contractual Information
25-4/1-1/1	Cost Tracking	1	11-22,24-41,43-59	Sensitive Contractual Information
25-4/1-1/1	Cost Tracking	2-4	Cols C,E,L,N,O	Sensitive Contractual Information
25-4/1-2	BID	1	19-20	Sensitive Contractual Information
25-4/1-2	BID	2	6-18	Sensitive Contractual Information
25-4/1-2	BID	3	3-22	Sensitive Contractual Information
25-4/1-2	BID	4	3-48	Sensitive Contractual Information
25-4/1-2	BID	5	3-39	Sensitive Contractual Information
25-4/1-2	BID	6	3-51	Sensitive Contractual Information
25-4/1-2	BID	7	2-50	Sensitive Contractual Information
25-4/1-2	BID	8	2-13	Sensitive Contractual Information
25-4/2-1	Purchase Order	1	16,30,32,35-36	Sensitive Contractual Information
Documents 02261-06 and 02989-06				
25-4/2-1	Purchase Order	2	8,11,13,16,19,22,25,28,31-32	Sensitive Contractual Information
25-4/2-1	Purchase Order	3	8,11,13,15,17,20,23,26,29,32,34-35	Sensitive Contractual Information
25-4/2-1	Purchase Order	4	8,11,13,15,17,19,21,23,25,27-28,31	Sensitive Contractual Information
25-4/2-1	Purchase Order	5	6	Sensitive Contractual Information
25-4/2-2	Job Planning	1	5-8,12,15,18-19,23-24	Sensitive Contractual Information
Documents 02262-06 and 02989-06				
26	2004 Storm Costs	2	13,15-16	Sensitive Contractual Information
26-1/5	2005 Storm Costs	1	Col G	Sensitive Contractual and Competitive Business Information
26-1/5	2005 Storm Costs	3	11,13-23	Sensitive Contractual and Competitive Business Information
26-1/5	2005 Storm Costs	9	4,12-19	Sensitive Contractual and Competitive Business Information

Staff Work Paper Number	Description	Page(s)	Line(s)	Type of Information Classified Confidential
26-1/5	2005 Storm Costs	11	9-14,17,19,21	Sensitive Contractual and Competitive Business Information
26-1/5	2005 Storm Costs	13	26	Sensitive Contractual and Competitive Business Information
26-1/7	2006 Storm Costs	1	13-18,21,23,25,30-31,34	Sensitive Contractual Information
26-1/7-1	2007 Storm Costs	1	14,16,20-21,25-27	Sensitive Contractual Information
26-1/7-1	2007 Storm Costs	4	5-6,8-9,12-13,15-16,18-19,21-22,24-25,27-28,31-32,34-36	Sensitive Contractual Information
26-1/7-2	2008 Storm Costs	1	14,16,20-21,25-27,31-32	Sensitive Contractual Information
26-1/7-2	2008 Storm Costs	5	5-6,9-10,12-13,15-16,18-19,21-22,24-25,27-29,31-32	Sensitive Contractual Information
26-1/7-2	2008 Storm Costs	6	5-7,9	Sensitive Contractual Information
42-2/1-2	Invoice	2	8-20,23-30,33	Sensitive Contractual and Competitive Business Information
42-2/2	Invoice	1	12,19-20	Sensitive Contractual and Competitive Business Information
42-2/3	Invoice	2	12,19-20	Sensitive Contractual and Competitive Business Information
Documents 02262-06 and 02989-06				
42-2/4	Invoice	2	11,18-19	Sensitive Contractual and Competitive Business Information
43-1	Cash Voucher	1	1-6	Sensitive Contractual and Competitive Business Information
43-1/1	Invoice	4	12-14,19	Sensitive Contractual and Competitive Business Information
43-1/1	Invoice	5	2-10	Sensitive Contractual and Competitive Business Information
43-1/1	Invoice	8	14-17	Sensitive Contractual and Competitive Business Information

Staff Work Paper Number	Description	Page(s)	Line(s)	Type of Information Classified Confidential
43-1/1	Invoice	10-16	Col A	Sensitive Contractual and Competitive Business Information
43-1/1	Invoice	24	Cols A-B	Sensitive Contractual and Competitive Business Information
43-1/1	Invoice	25	Cols A-C	Sensitive Contractual and Competitive Business Information
43-1/1	Invoice	30	10-24	Sensitive Contractual and Competitive Business Information
43-1/1	Invoice	33	11-27	Sensitive Contractual and Competitive Business Information
43-1/1	Invoice	37	5,20-21,23,25, 49-51	Sensitive Contractual and Competitive Business Information
43-1/1	Invoice	38	Cols A-C	Sensitive Contractual and Competitive Business Information
43-1/1	Invoice	43	11-16	Sensitive Contractual and Competitive Business Information
43-1/1	Invoice	44	8-13	Sensitive Contractual and Competitive Business Information
43-1/1	Invoice	46-52	Col A	Sensitive Contractual and Competitive Business Information
43-1/1	Invoice	53	8-11	Sensitive Contractual and Competitive Business Information
43-1/1	Invoice	54	5-8	Sensitive Contractual and Competitive Business Information
Documents 02262-06 and 02989-06				
43-1/1	Invoice	55	12,14,16	Sensitive Contractual and Competitive Business Information
43-1/1	Invoice	57	Cols A-B	Sensitive Contractual and Competitive Business Information
43-1/1	Invoice	59	6-9	Sensitive Contractual and Competitive Business Information

Staff Work Paper Number	Description	Page(s)	Line(s)	Type of Information Classified Confidential
43-1/1	Invoice	60	12,14	Sensitive Contractual and Competitive Business Information
43-1/1	Invoice	61	Cols A-B	Sensitive Contractual and Competitive Business Information
43-1/1	Invoice	62	10-12,21-22	Sensitive Contractual and Competitive Business Information
43-1/1	Invoice	63	10-13,22-23	Sensitive Contractual and Competitive Business Information
43-1/1	Invoice	64	Cols A-B	Sensitive Contractual and Competitive Business Information
43-1/1	Invoice	66	12,14,16	Sensitive Contractual and Competitive Business Information
43-1/1	Invoice	67	Cols A-B	Sensitive Contractual and Competitive Business Information
43-1/1	Invoice	68	12,14,16	Sensitive Contractual and Competitive Business Information
43-1/1	Invoice	72	12-21,25,27-28	Sensitive Contractual and Competitive Business Information
43-1/2-7	Invoice	1	6-38	Sensitive Contractual and Competitive Business Information
Documents 02262-06 and 05131-06				
43-2	Rita Cash Voucher	1	3-5	Sensitive Contractual and Competitive Business Information
Documents 02262-06 and 02989-06				
43-2/2	Invoice	1	12-23,31-32	Sensitive Contractual and Competitive Business Information
43-2/3	Invoice	1	12-17,30,31	Sensitive Contractual and Competitive Business Information
43-3/1	Invoice	1	12-26	Sensitive Contractual and Competitive Business Information
43-3/1	Invoice	3	76,78	Sensitive Contractual and Competitive Business Information

Staff Work Paper Number	Description	Page(s)	Line(s)	Type of Information Classified Confidential
43-3/2	Invoice	1	12-27	Sensitive Contractual and Competitive Business Information
43-3/2	Invoice	2	Col A	Sensitive Contractual and Competitive Business Information

Internal Audit Reports

FPL contends that portions of the audit contain sensitive information concerning internal auditing controls or reports of internal auditors. FPL witness Robert Osgood, by affidavit, affirms that the information includes auditing controls and reports of internal auditors which are kept confidential by FPL.

Sensitive Contractual and Competitive Business Information

By affidavit, FPL witness Robert H. Adams, Jr. testifies that staff working papers "IA ADJ (Internal Audit Adjustments) for One Contractor," "Wilma EAC 662," "Detail for Power Supply Katrina," "Katrina Estimates," "Katrina EAC 660 and 662," "Request 7-2 Response," "BID," "Cost Estimate," "2005 Storm Costs," "Invoice," and "Rita Invoice" contain information concerning 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 both FPL and its customers. Witness Adams also alleges that the information would impair the competitive business of the provider of the information.

FPL Witness D. K. White affirms by affidavit that staff's working papers "Reserve Labor," "Cash Voucher," and "Invoice" contain sensitive contractual and competitive business information. According to witness White, the information contains or constitutes vendor contractual data, such as pricing and other terms. Witness White also states the disclosure of this information 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.

According to the affidavits of Edward S. Bowman, W.E. Gwinn and Pamela L. Sonnelitter, staff's work papers entitled "2005 Storm Costs" contain or constitute contractual vendor data. They argue that the disclosure of items such as pricing and other terms from the vendor contracts would impair the future efforts of FPL to contract for goods or services on favorable terms, which would work to the detriment of FPL and its customers. They also state that portions of the information contain or constitute competitively sensitive data, the disclosure of which could impair the competitive business of the provider of the information. Ms. Sonnelitter also affirms that staff's audit work papers titled "Insulation," "Cost Tracking," "Bid," "Purchase Order," and "Job Planning" contain sensitive contractual information or vendor data, such as pricing and other terms. Disclosure of this information, according to Ms. Sonnelitter, would be detrimental to FPL and its customers in obtaining future services on favorable terms.

Conclusion

Upon review, it appears that the information identified above satisfies the criteria set forth in Section 366.093(3), Florida Statutes, for classification as proprietary confidential business information and, thus, shall be afforded confidential treatment. The information constitutes “[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;” or “[i]nformation relating to competitive interests, the disclosure of which would impair the competitive business of the provider of the information.”

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. 02260-06, 02261-06, 02262-06, 02989-06, and 05131-06 is granted. It is further

ORDERED that the information in Document Nos. 02260-06, 02261-06, 02262-06, 02989-06, and 05131-06 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 Commission Clerk, Office of Commission Clerk, 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.