

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Request for confidential)	DOCKET NO. 910459-EI
treatment of certain material requested)	
as part of the Florida Public Service)	ORDER NO. 24392
Commission's Comparative Management)	
Review, by Florida Power and Light)	ISSUED: 4/18/91
Company.)	

ORDER GRANTING CONFIDENTIALITY

By its Request filed March 27, 1991, Florida Power and Light Company (FP&L) has asked that we classify as confidential material supplied pursuant to Staff's March 1, 1991 letter asking for copies of all audits conducted "during the past five years relating to the budgeting function." Request, p. 2.

The material in question is described as an internal audit report by FP&L and so described by Staff was well. See, attachment. The Request includes an affidavit identifying the affiant as FP&L's Director of Auditing & Operations Analysis and the person under whose direction and control the internal audit report in question was prepared.

Subsection 366.093(3)(b) provides, in pertinent part, that ". . . reports of internal auditors" are confidential proprietary business information exempt from subsection 119.07(1), Florida Statutes, and treated as confidential by this Commission. Staff has recommended that this material be so treated and FP&L's own handling of the material in question is consistent with its Request and with the definitions provided in section 366.093, Florida Statutes. Request, p. 2. Moreover, Staff has indicated that all of the material in question is, in fact, an internal audit report, thus meeting the requirements of section 366.093 for confidential treatment.

In consideration of the above, it is

ORDERED by Commissioner J. Terry Deason, as Prehearing Officer, that the Request filed by Florida Power and Light Company is granted.

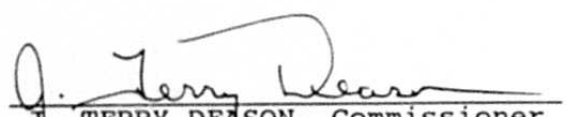
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By ORDER of Commissioner J. Terry Deason, this 18th day of April, 1991.


J. TERRY DEASON, Commissioner
and Prehearing Officer

(S E A L)
RCB
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NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.59(4), 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.

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 25-22.038(2), 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 sewer utility. A motion for reconsideration shall be filed with the Director, Division of Records and Reporting, 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.

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M E M O R A N D U M

April 5 1991

TO: RICHARD BELLAK, DIVISION OF APPEALS
FROM: CURTIS WILLIAMS, AFAD *CW*
RE: CONFIDENTIALITY OF CERTAIN INFORMATION FILED BY FPL

On March 27, 1991, FPL filed and made a request for specified confidential treatment of Internal Audit Department Audit Recommendations.

I have reviewed the information and agree with FPL that it should be treated as confidential. Section 366.093(3)(b), Florida Statutes defines proprietary confidential business information to include "internal auditing controls and reports of internal auditors."

Please contact me if you have any questions or need additional information.

RECEIVED

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General Counsel's Office
Florida Public Service Commission

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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In the Matter of Florida Power) Docket No. 910459-EI
& Light Company's Request for)
Confidential Classification)

REQUEST FOR CONFIDENTIAL CLASSIFICATION OF CERTAIN
MATERIAL REQUESTED AS PART OF THE COMMISSION'S COMPARITIVE
MANAGEMENT REVIEW

COMES NOW Florida Power & Light Company (hereinafter FPL) and files this its Request for Confidential Classification of Certain Material Requested as part of the Commission's Comparitive Management Review pursuant to Florida Administrative Code (F.A.C.) Rule 25-22.006, Confidential Information, as amended and filed on April 6, 1990, Florida Public Service Commission (hereinafter Commission) Order No. 22795 and §366.093, Florida Statutes. FPL further states:

- 1. Petitioner's name and address are:

Florida Power & Light Company
P. O. Box 029100
Miami, Florida 33102-9100.

Orders, notices, or other pleadings relevant hereto should be served on:

K. Crandal McDougall
LAW/GO
Florida Power & Light Company
P. O. Box 029100
Miami, Florida 33102-9100.

- 2. By letter dated March 1, 1991, the Commission informed FPL that the Commission's Staff would be performing a Comparative Management Review. As part of that review, the Staff has

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requested, through the above-mentioned March 1, 1991 letter, copies of all audits conducted "during the past five years relating to the budgeting function."

3. FPL has identified one audit conducted by FPL's Auditing and Operations Analysis Department which is responsive to the Staff's requests. That audit report is attached to this pleading as Attachment A and should be treated as confidential information. An Affidavit in support of this request executed by FPL's Director of Auditing and Operations Analysis is attached to this pleading as Attachment B.

4. FPL seeks classification of the internal audit report, identified as Attachment A, as proprietary confidential business information pursuant to §366.093, Florida Statutes (F.S.). In pertinent, part (3)(b) of §366.093, F.S. defines proprietary confidential business information as "internal auditing controls and reports of internal auditors." Attachment A is a report of an internal auditor and, as such, meets the definition of proprietary confidential business information. See the Grummer Affidavit, Attachment B.

5. Attachment A is intended to be and is treated by FPL as private and has not otherwise been publicly disclosed to the best of FPL's knowledge and belief.

6. Highlighted and edited copies of Attachment A have not been provided due to the impracticality of such. As Attachment A is a report of an internal auditor all of the material contained therein is confidential by definition pursuant to §366.093(3)(b). For the same reason a line by line justification is equally inappropriate. Therefore, the Commission should find that Attachment A is proprietary confidential business information as that term is used in §366.093, F.S.

7. Attachment A should not be declassified for at least a period of 18 months and should be returned to FPL in accordance with §366.093(4), F.S., as soon as the information is no longer necessary for the Commission to conduct its business.

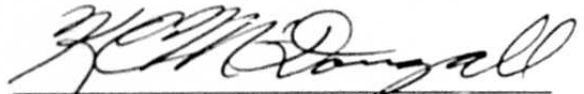
8. In applying the statutory standards delineated in paragraph 4, the Commission is not required to weigh the merits of public disclosure relative to the interests of utility customers. The issue presented to the Commission, by this pleading, is whether the information sought to be protected fits within the statutory definition of proprietary confidential business information, as set forth in §366.093, F.S., and should therefore be exempt from §119.07(1), F.S.

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WHEREFORE, FPL requests the Commission find that the internal audit report identified herein is proprietary confidential business information pursuant to §366.093, F.S., and classify the material as confidential information in accordance with Rule 25-22.006, F.A.C., as amended.

Respectfully submitted,



K. Crandal McDougall, Esq.
Florida Power & Light Company
P. O. Box 029100
Miami, FL 33102-9100
(305) 552-3921
Fla. Bar No. 0763284

Dated:

3-27-91

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of Florida Power & Light Company's Request for Confidential Classification of Certain Material Requested as Part of the Commission's Comparative Management Review without Attachment A was provided by first class mail service to Lisa Harvey, Management Studies Bureau, Florida Public Service Commission, Fletcher Building, 101 East Gaines Street, Tallahassee, Florida 32399-0850 on this the 27th day of March, 1991.


K. Crandal McDougall, Esq.

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

STATE OF FLORIDA)
 COUNTY OF DADE)

AFFIDAVIT

Before me, the undersigned authority, Dennis E. Grummer appeared, who being duly sworn by me, said and testified:

1) My name is Dennis E. Grummer. I am employed by Florida Power & Light Company ("FPL") as Director of Auditing & Operations Analysis. My business address is 9250 West Flagler Street, Miami, Florida 33174.

2) This Affidavit is in support of FPL's request for confidential classification of an internal audit report requested by the Commission's Staff pursuant to a Comparative Management Review initiated by the Commission on March 1, 1991.

3) Attachment A to FPL's Request for Confidential Classification of Certain Material Requested as part of the Commission's Comparative Management Review was prepared under my supervision and control as part of an internal audit review of FPL's Cost/Savings Tracking System. It is intended to be and is treated by FPL as confidential. Attachment A has not been publicly disclosed and has only been circulated to a select few employees of FPL on a need to know basis.

4) Attachment A should remain confidential for a period of not less than 18 months.

5) Further affiant sayeth naught.



 Dennis E. Grummer

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Grummer Affidavit
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Sworn to before me this 26th day of March, 1991 in Dade
County, Florida.

Barbara G. Wagner
Notary Public

My Commission Expires: **NOTARY PUBLIC, STATE OF FLORIDA.
MY COMMISSION EXPIRES: MAR. 15, 1994.
BONDED THRU NOTARY PUBLIC UNDERWRITERS.**

Grummer