

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Fuel and purchased power
cost recovery clause with
generating performance incentive
factor.

DOCKET NO. 990001-EI
ORDER NO. PSC-99-0198-CFO-EI
ISSUED: February 8, 1999

ORDER GRANTING CONFIDENTIAL CLASSIFICATION TO PORTIONS OF
DOCUMENT NOS. 07078-98, 06508-98, 06509-98, and 06510-98

Pursuant to Section 366.093, Florida Statutes, and Rule 25-22.006(3)(a)2 and (4), Florida Administrative Code, Florida Power & Light Company (FPL) requests confidential classification of the information contained in specific portions of Document Nos. 07078-98, 06508-98, 06509-98, and 06510-98. FPL asserts that the information contained in these documents includes the following: proprietary, confidential business information; and, internal auditing controls or reports of internal auditors and related information; information concerning bids or other contractual data, the disclosure of which would impair the efforts of FPL or its affiliates to contract for goods and services on competitive terms, all of which are within the meaning of Section 366.093(3), Florida Statutes. FPL also seeks to protect attorney-client privileged information as defined by Section 90.502(2), Florida Statutes. FPL claims that the disclosure of any of this information would harm the company or its ratepayers. FPL requests varying periods of confidential protection for this information. FPL seeks to protect fuel oil pricing information for 24 months from the date of the issuance of this order. FPL seeks to protect all other fuel supply information for a period of 18 months from the date of the issuance of this Order. FPL requests that attorney-client privileged information be kept confidential indefinitely. FPL requests that all the material be returned to FPL as soon as it is no longer needed by the Commission to conduct its business so that FPL may maintain the confidentiality of these documents. FPL asserts that these materials are confidential and that the company has not disclosed the information contained in these documents.

DOCUMENT NUMBER-DATE

01603 FEB-89

FPC-RECORDS/REPORTING

CONFIDENTIAL INFORMATION

FPL requests confidential classification for the information contained in the following table:

TABLE 1: OIL PRICING INFORMATION

WORKPAPER NUMBER/PAGE NUMBER	LINE	COLUMN	PERIOD IN MONTHS
Wkppr 43-2 pp. 1-3	ALL	A, B	24
Wkppr 43-4 pp. 3	ALL	A, B	24
pp. 4, 5, and 6	ALL	A	
Wkppr 43-4/6	1-3	A, B	24
Wkppr 43-4/6-2	ALL	ALL	24
Wkppr 43-4/6-4 pp. 1-11	ALL	ALL	24
Wkppr 43-4/7	1-5	ALL	24
Wkppr 43-4/7-1	1-2	A, B	24
Wkppr 43-4/7-2	ALL	ALL	24
Wkppr 43-4/8	1-7	ALL	24
Wkppr 43-4/8-1	1-2	A, B, C	24
Wkppr 43-4/8-2	ALL	ALL	24

FPL requests that the fuel oil pricing information detailed above not be declassified for a period of at least 24 months. This is the maximum period of time during which FPL fuel oil contracts are in effect. FPL asserts that disclosure prior to 24 months from the date of the issuance of this Order could impair FPL's ability to negotiate favorable fuel oil contracts in the future, which could harm FPL's ratepayers. FPL requests that this information be returned to it after the expiration of the confidentiality time period.

TABLE 2: OTHER FUEL SUPPLY INFORMATION

PAGES	LINES	COLUMNS	PERIOD IN MONTHS
Wkppr 9 pp. 1-4	ALL	ALL	18
Wkpprs 9-1 and 9-2	ALL	ALL	18
Wkpprs 9-3 and 9-4 pp. 1-2	ALL	ALL	18
Wkpprs 9-5 and 9-6	ALL	ALL	18
Wkpprs 9-7 pp. 1-2	ALL	ALL	18
Wkppr 9-7/1	ALL	ALL	18
Wkppr 9-7/2 pp. 1-7	ALL	ALL	18
Wkppr 9-7/3 pp. 1-7	ALL	ALL	18
Wkppr 9-8 pp. 1-2	ALL	ALL	18
Wkppr 9-9 pp. 1-2	ALL	ALL	18
Wkppr 9-10 pp. 1-3	ALL	ALL	18
Wkppr 9-11 pp. 1-2	ALL	ALL	18
Wkppr 9-12	ALL	ALL	18
Wkppr 9-13 pp. 1-3	ALL	ALL	18
Wkppr 9-14	ALL	ALL	18
Wkppr 9-15	ALL	ALL	18
Wkppr 9-16	ALL	ALL	18
Wkppr 9-17	ALL	ALL	18
Wkppr 9-18	ALL	ALL	18
Wkppr 43-6/6-2 p. 2	ALL	A, B, C	18
Wkppr 43-6/6-2/1-1/2	ALL	A	18

PAGES	LINES	COLUMNS	PERIOD IN MONTHS
Wkppr 43-6/6-3 pp. 1-2	ALL	A, B, C	18
Wkppr 43-6/6-3/1-1/2	ALL	A	18
Wkppr 43-6/6-4 pp. 1-2	ALL	A, B, C	18
Wkppr 43-6/6-4/1-1/2	ALL	A	18
Wkppr 43-6/6-5 pp. 1-2	ALL	A, B, C	18
43-6/6-5/1-1/2	ALL	A	18
Wkppr 44-4/3 pp. 2-8	ALL	ALL	18
Wkppr 43-6/6-3 pp. 1-2	ALL	A, B, C	18
Wkppr 43-6/6-3/1-1/2	ALL	A	18
Wkppr 43-6/6-4 pp. 1-2	ALL	A, B, C	18
Wkppr 43-6/6-4/1-1/2	ALL	A	18
Wkppr 43-6/6-5 pp. 1-2	ALL	A, B, C	18
Wkppr 43-6/6-5/1-1/2	ALL	A	18
Wkppr 44-4/3 pp. 2-8	ALL	ALL	18
Wkppr 44-5/3	1-2	ALL	18
Wkppr 44-5/3 p. 2	3-5	ALL	18
Wkppr 44-5/4	3-6	A, B	18
Wkppr 44-5/4	3-6	A, B	18

PAGES	LINES	COLUMNS	PERIOD IN MONTHS
Wkppr 44-5/4 p. 2	3-6	ALL	18
Wkppr 44-5/4-1	1-13	A, B, C	18
Wkppr 44-5/4-1 p. 2	ALL	ALL	18
Wkppr 44-5/4-1/1	1	ALL	18
Wkppr 44-5/4-1/1-1	1-14	ALL	18
Wkppr 44-5/4-1/1-1 p. 2	1-7	ALL	18
Wkppr 44-5/4-1/1-1 p. 7	ALL	ALL	18
Wkppr 44-5/4-2	ALL	A, B, C, D	18
Wkppr 44-5/4-2 p. 2	1-10	ALL	18
Wkppr 44-5/4-4 pp. 1-3	ALL	ALL	18
Wkppr 44-5/4-5 p. 3	ALL	ALL	18
Wkppr 44-5/5 p. 1	ALL	A, B	18
Wkppr 44-5/5 p. 2	ALL	A, B, C, D, E	18
Wkppr 44-5/5-5	ALL	A, B	18
Wkppr 44-5/5-5 p. 2	1-3	ALL	18
Wkppr 44-5/5-6	ALL	A, B	18
Wkppr 44-5/5-7	1	ALL	18

PAGES	LINES	COLUMNS	PERIOD IN MONTHS
Wkppr 44-5/5-7/1	1-5	ALL	18
Wkppr 44-55-7/1 p. 2	ALL	A, B, C	18
Wkppr 44-5/5-7/2	1-18	ALL	18
Wkppr 44-5/5-7/2-3	1-16	ALL	18
Wkppr 44-5/5-7/2-4	1-6	ALL	18
Wkppr 44-5/5-7/2-4 p. 2	1-11	ALL	18
Wkppr 44-5/5-8	1-7	ALL	18
Wkppr 44-5/7 p. 2	1-3	ALL	18
Wkppr 44-5/9	1-6	ALL	18
Wkppr 45-3	ALL	ALL	18
Wkppr 43-4 pp. 1-3	ALL	ALL	18
Wkppr 45-4/1 pp. 1-2	ALL	ALL	18
Wkppr 45-4/2 pp. 1-2	ALL	ALL	18
Wkppr 45-4/3 pp. 1-2	ALL	ALL	18
Wkppr 45-4/3-1	ALL	ALL	18
Wkppr 45-4/3-1/1 pp. 1-3	ALL	ALL	18
Wkppr 45-4/4	ALL	ALL	18
Wkppr 46-1	ALL	ALL	18
Wkppr 46-1/1 pp. 1-2	ALL	ALL	18

PAGES	LINES	COLUMNS	PERIOD IN MONTHS
Wkppr 46-1/1-1 pp. 1-2	ALL	ALL	18
Wkppr 46-1/1-2 pp. 1-2	ALL	ALL	18
Wkppr 46-1/2	ALL	ALL	18
Wkppr 46-1/2-1 pp. 1-2	ALL	ALL	18
Wkppr 47 pp. 1-4	ALL	ALL	18
Wkppr 47-1 pp. 1-4	ALL	ALL	18
Wkppr 47-1/1 pp. 1-2	ALL	ALL	18
Wkppr 47-1/2 pp. 1-2	ALL	ALL	18
Wkppr 47-1/2-1	ALL	ALL	18
Wkppr 47-1/2-2 pp. 1-2	ALL	ALL	18
Wkppr 47-1/2-2/1 pp. 1-31	ALL	ALL	18
Wkppr 47-1/2-2/1-1/1	ALL	ALL	18
Wkppr 47-1/2-3 pp. 1-2	ALL	ALL	18
Wkppr 47-1/2-4	ALL	ALL	18
Wkppr 47-1/2-4/1	ALL	ALL	18
Wkppr 47-1/2-5	ALL	ALL	18
Wkppr 47-1/3 pp. 1-2	ALL	ALL	18

PAGES	LINES	COLUMNS	PERIOD IN MONTHS
Wkppr 47-1/3-2	ALL	ALL	18
Wkppr 47-1/3-2/1	ALL	ALL	18
Wkppr 47-1/3-2/1-1 pp. 1-31	ALL	ALL	18
Wkppr 47-1/3-2/1-1/1	ALL	ALL	18
Wkppr 47-1/3-2/2	ALL	ALL	18
Wkppr 47-1/3-3	ALL	ALL	18
Wkppr 47-1/3-3/1	ALL	ALL	18
Wkppr 47-1/3-4	ALL	ALL	18
Wkppr 47-1/3-4/1 pp. 1-2	ALL	ALL	18
Wkppr 47-1/3-4/1-1 pp. 1-2	ALL	ALL	18
Wkppr 48-1 pp. 1-2	ALL	ALL	18
Wkppr 48-2 pp. 1-2	ALL	ALL	18
Wkppr 48-2/1	ALL	ALL	18
Wkppr 49-2/2	ALL	ALL	18
Wkppr 44-5/4-2	ALL	A, B, C, D	18

FPL asserts that the information contained in this table pertains to internal audit controls or reports of internal auditors and related information as well as non-fuel oil contractual information concerning fuel contract data. FPL contends that disclosure of this information could lead to competitors converging on the current contract prices for goods and services, thereby eliminating FPL's ability to contract for lower prices in the future. According to FPL, this information, if made public, "would impair the efforts of the public utility or its affiliates to contract for

goods or services on favorable terms." Section 366.093(3)(d), Florida Statutes.

FPL also seeks confidential classification of the following information.

TABLE 3: ATTORNEY-CLIENT PRIVILEGED INFORMATION

WORKPAPER/PAGE NUMBER	LINES	COLUMNS	PERIOD IN MONTHS
Wkppr 44-5/3 p. 2	1-2	ALL	18
Wkppr 44-5/4 p.2	1-2	ALL	18

FPL asserts that this information is privileged attorney-client information and is entitled to confidential classification indefinitely. This information has now been disclosed to a public entity, and therefore, it is no longer privileged. This information does not appear to be of a nature that is generally considered sensitive such as a mental impression, conclusion, litigation strategy, or legal theory prepared in anticipation of imminent litigation or anticipation of adversarial administrative proceedings. This information is not otherwise entitled to confidential classification. FPL has not indicated a previous administrative decision where similar material was found to be confidential. Neither has FPL presented how disclosure of the material could impair its business or lead to harm to its ratepayers.

PERIOD OF CONFIDENTIALITY

FPL requests that the information contained in Table One be granted confidential classification for a period of 24 months from the date of the issuance of this Order. This information is contractual information related to fuel oil price. Because disclosure of this information could lead to price convergence, thus harming FPL's ratepayers, this information shall be granted confidential classification for a period of 24 months from the date of the issuance of this Order.

Information contained in Table Two relates to non-fuel oil contractual information concerning internal auditing controls,

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reports of internal auditors and information related to competitive interest including contractual data and bids. Disclosure of this information could impair the efforts of FPL or its affiliates to contract for goods and services on competitive terms within the meaning of Section 366.093(3), Florida Statutes. This information shall be granted confidential classification for a period of 18 months from the date of the issuance of this Order.

FPL seeks to protect information identified in Table Three for an indefinite period of time, claiming that it is privileged information under Section 90.502(2), Florida Statutes. This information has been disclosed to a public agency, the Florida Public Service Commission, and is no longer privileged. If there were a claim of privilege, it should have been asserted before the papers were provided to staff. This information shall not be granted confidential classification.

At the expiration of the confidential periods, the company's information contained in Document Nos. 07078-98, may be returned to FPL. Document Nos. 06508-98, 06509-98, and 06510-98, however, are reports of audit work performed by staff and must be retained in accordance with the Commission's established records retention requirements. Before the confidential periods expire, FPL may request, for good cause, that the confidential periods be extended.

Based upon the foregoing, it is therefore

ORDERED by Commissioner Susan F. Clark, as Prehearing Officer, that the information contained in Document Nos. 07078-98, 06508-98, 06509-98, and 06510-98 are entitled to confidential classification as discussed within the body of this Order. It is further

ORDERED that the information contained in Table One, which relates to Florida Power & Light's fuel oil contracts, is granted confidential classification for a period of 24 months from the date of the issuance of this Order for good cause shown. It is further

ORDERED that the information contained in Table Two, which pertains to non-oil fuel contract data and internal audit information, is granted confidential classification for a period of 18 months from the date of the issuance of this Order. It is further

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ORDERED that the information contained in Table Three, which pertains to certain information for which attorney-client privilege is claimed, is denied confidential classification for the reasons discussed within the body of this Order. It is further

ORDERED that the information contained in Document No. 07078-98, consisting of company information, shall be returned to the company at the expiration of the 24 month confidential period, unless the company, for good cause, requests and extension of the confidential period. It is further

ORDERED that this Order will be the only notification to the parties of the declassification date of this material.

By ORDER of Commissioner Susan F. Clark, as Prehearing Officer, this 8th day of February, 1999.



SUSAN F. CLARK
Commissioner and Prehearing Officer

(S E A L)

GAJ

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.

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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 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.

M E M O R A N D U M

FEBRUARY 8, 1998

RECEIVED-1998
FEB-8 PM 1:41
RECORDS AND
REPORTING

TO: DIVISION OF RECORDS AND REPORTING
FROM: DIVISION OF LEGAL SERVICES (JAYE) *① RVE*
RE: DOCKET NO. 990001-EI - FUEL AND PURCHASED POWER COST
RECOVERY CLAUSE WITH GENERATING PERFORMANCE INCENTIVE
FACTOR

99-0198-CFO-EI

Attached is an ORDER GRANTING CONFIDENTIAL CLASSIFICATION TO PORTIONS OF DOCUMENT NOS. 07078-98, 06508-98, 06509-98, and 06510-98 to be issued in the above-referenced docket. (Number of pages in order - 12)

GAJ/js
Attachment
cc: Division of Electric and Gas
I:0707898.gaj

MUST GO TODAY

*forwarded = 10/0.
mailed -*