

**BEFORE THE**

**FLORIDA PUBLIC SERVICE COMMISSION**

In re: Florida Power & Light Company's )  
Request for Confidential Classification )  
Of Material Provided pursuant to )  
Audit No. 99-279-4-1 )

Docket No: 001237-ET

Filed August 25, 2000

**REQUEST FOR CONFIDENTIAL CLASSIFICATION  
OF MATERIALS PROVIDED IN AUDIT NO. 99-279-4-1**

**NOW, BEFORE THIS COMMISSION**, through undersigned counsel, comes Florida Power & Light Company ("FPL") and, pursuant to rule 25-22.006 of the Florida Administrative Code and section 366.093 of the Florida Statutes, hereby requests confidential classification of certain materials provided to the Florida Public Service Commission ("FPSC" or "Commission") staff ("Staff") in connection with the staff audit identified as Audit Control No. 99-279-4-1 (hereinafter the "Audit"). In support of its Request, FPL states as follows:

1. Petitioner's name and address are:

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

Orders, notices, or other pleadings related to this request should be served on:

William G. Walker, III  
Florida Power & Light Company  
Vice President  
215 South Monroe Street  
Suite 810  
Tallahassee, Florida 32301-1859  
(850) 224-7595

R. Wade Litchfield  
Florida Power & Light Company  
Senior Attorney  
700 Universe Boulevard  
Juno Beach, Florida 33408-0420  
(561) 691-7101  
(561) 691-7135 Facsimile

DOCUMENT NUMBER-DATE

10552 AUG 25 8

FPSC-RECORDS/REPORTING

2. During the Audit, Staff requested access to various FPL reports and other documents. By letter dated August 4, 2000, Staff indicated its intent to retain certain workpapers for which confidential treatment previously had been requested. Pursuant to Rule 25-22.006(3)(a), FPL was given twenty-one days from the date of the letter, or until August 25, 2000, within which to file a formal Request for Confidential Classification with respect to such workpapers. FPL does not agree that the hand delivery of the above-referenced letter and work papers constitutes an “exit conference” within the meaning of Rule 25-22.006. Further, FPL has not waived its right to an exit conference and, in fact, has specifically requested an exit conference. Nevertheless, FPL has agreed to submit its request within the time prescribed by the Staff field auditor.

3. The following exhibits are included herewith and made a part hereof:

a. Composite Exhibit A consists of all documents for which FPL seeks confidential treatment, whether in whole or in part. All information in Exhibit A that FPL asserts is entitled to confidential treatment has been highlighted. Composite Exhibit A is submitted separately in a sealed folder or carton marked “CONFIDENTIAL.”

b. Composite Exhibit B consists of edited versions of all documents for which FPL seeks confidential treatment. All information FPL asserts is entitled to confidential treatment has been blocked out in Composite Exhibit B.

c. Exhibit C is a table containing a line-by-line and page-by-page identification of the information for which confidential treatment is sought, and, with regard to each document or portions thereof, references to the specific statutory basis or bases for the claim of confidentiality and to the affidavits in support of the requested classification. Exhibit C is sometimes referred to hereinafter as the “Justification Table.”

d. Exhibit D includes the affidavits of Sol Stamm and Maria Fogerty.

4. FPL seeks confidential protection for the information highlighted in Exhibit A. This information principally consists of FiberNet's financial projections, operating results, contract and pricing information, cost data, and internal audits or audit reports. The information also includes detailed descriptions by location of FiberNet's telecommunications system and equipment that would tend to reveal FiberNet's system capabilities and/or deficiencies by location. This information, if made public, would afford FiberNet's competitors an unfair advantage over FiberNet and would impair FiberNet's efforts to enter into contracts on commercially favorable terms. Disclosure of pricing and other contractual terms could also impair the competitive business of FiberNet's customers.

5. The information also includes the names of FiberNet employees. As discussed by Mr. Stamm in the attached affidavit, because of the difficulty retaining competent employees in today's telecommunications market, FiberNet treats its employee directories and lists as confidential information. Access to such lists allows recruiters to conduct comprehensive "raids" of a company's employees, thus impairing its competitive business.


6. FPL submits that the highlighted information is proprietary confidential business information within the meaning of section 366.093(3). Pursuant to section 366.093, such information is entitled to confidential treatment and is exempt from the disclosure provisions of the public records law. Thus, once the Commission determines that the information in question is proprietary confidential business information, the Commission is not required to engage in any further analysis or review such as weighing the harm of disclosure against the public interest in access to the information.

7. Upon a finding by the Commission that the material in Exhibit A for which FPL seeks confidential treatment is proprietary confidential business information, pursuant to section 366.093(4) such materials should not be declassified for at least eighteen (18) months and should be returned to FPL as soon as the information is no longer necessary for the Commission to conduct its business.

**WHEREFORE**, for the above and foregoing reasons, as more fully set forth in the supporting materials and affidavits included herewith, Florida Power & Light Company respectfully requests that its Request for Confidential Classification be granted.

Respectfully submitted,

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R. Wade Litchfield  
Florida Authorized House Counsel  
Attorney for  
Florida Power & Light Company  
700 Universe Boulevard  
Juno Beach, Florida 33408-0420  
(561) 691-7101

STATE OF FLORIDA

Commissioners:

J. TERRY DEASON, CHAIRMAN  
E. LEON JACOBS, JR.  
LILA A. JABER



DIVISION OF RECORDS & REPORTING  
BLANCA S. BAYÓ  
DIRECTOR  
(850) 413-6770

# Public Service Commission

## M-E-M-O-R-A-N-D-U-M

DATE: August 25, 2000

TO: \_\_\_\_\_ DIVISION OF APPEALS  
\_\_\_\_\_ DIVISION OF COMPETITIVE SERVICES  
\_\_\_\_\_ DIVISION OF ECONOMIC REGULATION  
\_\_\_\_\_ DIVISION OF LEGAL SERVICES  
\_\_\_\_\_ DIVISION OF POLICY ANALYSIS & INTERAGENCY LIAISON  
xx \_\_\_\_\_ DIVISION OF REGULATORY OVERSIGHT  
\_\_\_\_\_ DIVISION OF SAFETY & ELECTRIC RELIABILITY

FROM: DIVISION OF RECORDS AND REPORTING (Lockard)

RE: CONFIDENTIALITY OF CERTAIN INFORMATION

DOCUMENT NO: 10553-00  
DESCRIPTION: Certain materials provided in Audit No. 99-279-4-1

SOURCE: Florida Power & Light Company  
DOCKET NO: 001237-EI

The above material was received with a request for confidentiality (attached). Please prepare a recommendation for the attorney assigned to the case by completing the section below and forwarding a copy of this memorandum, together with a brief memorandum supporting your recommendation, to the attorney. Copies of your recommendation should also be provided to the Division of Records and Reporting and to the Division of Appeals.

Please read each of the following and check if applicable.

- The document(s) is (are), in fact, what the utility asserts it (them) to be.
- The utility has provided enough details to perform a reasoned analysis of its request.
- The material has been received incident to an inquiry.
- The material is confidential business information because it includes: