



Public Service Commission

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

RECEIVED FPSC
01 DEC -6 AM 11:20
COMMISSION CLERK

DATE: December 6, 2001
TO: Robert Elias, Esquire, Division of Legal Services
FROM: Matthew Brinkley, CPA, Division of Economic Regulation MB
RE: Docket 001148, Document 14330-01, Request for Confidentiality

FPL is requesting confidential treatment of two categories of POD responses to SFHHA's 1st set of interrogatories and production of documents requests. I recommend treating both categories as confidential.

The first category FPL seeks confidentiality on are CERA reports and documents pertaining to a seminar held by CERA. CERA is a paid provider of said information and does not release it publicly. Before receiving CERA's proprietary information, clients agree to keep the information confidential. Our failure to give confidential status to this information likely will reduce the value of the information to potential clients which could result in loss of revenues to CERA; therefore, I recommend granting confidential treatment of this information.

The second category FPL seeks confidentiality on are its Financial Projections. FPL did not cite specific Security and Exchange Commission (SEC) rules regarding public disclosure; however, arguably the most stringent requirements to date, Regulation FD (fair disclosure) went into effect October 23, 2000, and is the basis of my analysis.

Regulation FD provides requirements that if material nonpublic information is released to certain classes of outsiders, the information must be made to the general body of financial statement users [§ 243.100 (a)]. According to the SEC:

The final regulation, like the proposal, applies to disclosures of "material nonpublic" information about the issuer or its securities. The regulation does not define the terms "material" and "nonpublic," but relies on existing definitions of these terms established in the case law. Information is material if "there is a substantial likelihood that a reasonable shareholder would consider it important" in making an investment decision.

It is in my opinion that FPL's Financial Projections are material and nonpublic as the terms are used in Regulation FD.

APP _____
CAF _____
CMP _____
COM _____
CTR _____
EGR _____
LEG _____
OPC _____
PAI _____
RGO _____
SEC _____
SER _____
OTH _____
The belief that information is material and nonpublic is not sufficient to trigger the requirements of Regulation FD. The requirements apply to disclosures made to any person outside the issuer: "(i) who is a broker or dealer, or a person associated with a broker or dealer...(ii) who is an investment adviser...(iii) who is an investment company...(iv) who is a holder of the issuer's securities, under circumstances in which it is reasonably foreseeable that the person will purchase or sell the issuer's securities on the basis of the information."

DOCUMENT NUMBER-DATE

15259 DEC-6 01

FPSC-COMMISSION CLERK

Matthew Brinkley

Memorandum
Robert Elias, Esquire, Division of Legal Services
December 6, 2001
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It is possible that the Commission's possession of FPL's Financial Information falls under categories (i) or (ii) in the preceding paragraph since brokers, dealers, and investment advisors have access under Florida's Sunshine Laws. Regulation FD does exempt disclosures that are made "to a person who expressly agrees to maintain the disclosed information in confidence," §243.100(b)(2)(ii). To be certain that FPL does not fall subject to public disclosure requirements under Regulation FD, I recommend we give it confidential treatment as well.

STATE OF FLORIDA

Commissioners:
E. LEON JACOBS, JR., CHAIRMAN
J. TERRY DEASON
LILA A. JABER
BRAULIO L. BAEZ
MICHAEL A. PALECKI



DIVISION OF THE COMMISSION CLERK AND
ADMINISTRATIVE SERVICES
BLANCA S. BAYÓ
DIRECTOR
(850) 413-6770

Public Service Commission

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

RECEIVED - PSC PUBLIC SERVICE
01 DEC -6 AM 11:20 14 AM 10:45
COMMISSION OF ECONOMIC REGULATION
CLERK OF PUBLIC SERVICE

DATE: November 14, 2001

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

FROM: DIVISION OF THE COMMISSION CLERK AND ADMINISTRATIVE SERVICES

RE: CONFIDENTIALITY OF CERTAIN INFORMATION

DOCUMENT NO: 14330-01

DESCRIPTION: FPL (Butler) - (CONFIDENTIAL) Response to SFHHA's 1st set of
interrogatories and production of documents.

SOURCE: Florida Power & Light Company

DOCKET NO: 001148-EI

The above material was received with a request for confidentiality. 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:

(a) Trade secrets;

(b) Internal auditing controls and reports of internal auditors;

(c) Security measures, systems, or procedures;

(d) Information concerning bids or other contractual data, the disclosure of which would impair the efforts of the company to contract for services on favorable terms;

(e) Employee personnel information unrelated to compensation, duties, qualifications, or responsibilities;

(f) Tax returns or tax-related information;

(g) Information relating to competitive interests, the disclosure of which would impair the competitive business of the provider of information.

The material appears to be confidential in nature and harm to the company or its ratepayers will result from public disclosure.

The material appears not to be confidential in nature.

The material is a periodic or recurring filing and each filing contains confidential information.

Response prepared by: Matthew Brinkley

Date: 12-6-01

cc:	<input checked="" type="checkbox"/> APP	<input type="checkbox"/> PAI
	<input type="checkbox"/> CMP	<input checked="" type="checkbox"/> RAR
	<input type="checkbox"/> ECR	<input type="checkbox"/> RGO
	<input type="checkbox"/> LEG	<input type="checkbox"/> SER