



Public Service Commission

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

DATE: December 7, 2001
TO: Division of Appeals (Cibula)
FROM: Division of Regulatory Oversight (Freeman, Vandiver)
RE: Docket 011321-EI, Recommendation concerning Florida Power & Light Company's (FPL's) request for confidential classification...

On September 11, 2001, when a copy of certain portions of staff's working papers obtained or prepared during the audit entitled "Allocation Methodology for Costs Charged from FiberNet to FPL for the estimated year ended December 31, 2001" was delivered to FPL at the audit exit conference...

On September 27, 2001, the utility filed a request pursuant to Rule 25-22.006, FAC, and Section 366.093, Florida Statutes (F.S.), that selected portions of the working papers prepared by staff during the audit receive confidential classification.

On December 5, 2001, after discussions with the staff, FPL revised its filing and provided additional redacted copies of workpapers of public inspection (document 15206-01).

Documents 11852-01, 11853-01 and 12244-01 are currently held by the Commission's Division of Commission Clerk and Administrative Services as confidential pending resolution of FPL's request for confidential classification, as modified.

Pursuant to Section 119.07, F.S., documents submitted to this Commission are public records. The only exceptions to this law are specific statutory exemptions and exemptions granted by governmental agencies pursuant to the specific items of a statutory provision.

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DOCUMENT NUMBER-DATE

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FPSC-COMMISSION CLERK

“Proprietary confidential business information means information, regardless of form or characteristics, which is owned or controlled by the person or company, is intended to be and is treated by the person or company as private in that the disclosure of the information would cause harm to the ratepayers or the person’s or company’s business operations, and has not been disclosed unless disclosed pursuant to a statutory provision, an order of a court or administrative body, or private agreement that provides that the information will not be released to the public. Proprietary confidential business information includes but is not limited to:....

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

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

According to Section 366.093, F.S., and Rule 25-22.006, FAC, the utility has the burden of demonstrating that materials qualify for confidential classification. According to Rule 25-22.006, FAC, the utility must meet this burden by demonstrating that the information is proprietary confidential business information, the disclosure of which will cause the utility, the provider of the information or the ratepayer harm.

Staff Analysis of the Request

Reading the FPL filing reveals the sensitive materials consist of:

1. Sensitive information concerning FiberNet’s pricing and costs

FiberNet Controller, Sol Stamm, identifies the sensitive information which describes FiberNet’s pricing and costs. Mr. Stamm indicates release of this information would give an unfair advantage to FiberNet’s competitors and would impair the efforts of FiberNet to enter into contracts on favorable terms.

2. Sensitive information concerning FPL’s pricing and cost data as it pertains to FiberNet

FPL Manager of Cost Measurement and Cost Allocations, Berta S. Rufat, identifies the sensitive information which describe FPL’s pricing and costs with respect to FiberNet. Ms. Rufat indicates release of this information would pride an unfair advantage to FPL’s competitors and would impair the efforts of FPL to enter into contracts on favorable terms.

Staff Analysis of the Request (continued)

3. Names of FiberNet's customers.

FiberNet Controller Stamm identifies those portions of the audit materials which identify the names of FiberNet's Customers. Mr. Stamm indicates release of this information would provide FiberNet's competitors with an unfair advantage and would impair FiberNet's ability to contract on favorable terms.

4. Specific information by location describing FiberNet's Telecommunications equipment.

FiberNet Controller Stamm points out where detailed descriptions by location of FiberNet's telecommunications equipment would tend to reveal FiberNet's system capabilities and/or deficiencies by location. Mr. Stamm indicates release of this information would impair FiberNet's competitive business and would impair FiberNet's ability to contract on favorable terms.

5. Information concerning internal audit reports and internal auditing controls;

FPL Internal Audit Manager Rick Del Cueto identifies which internal audit material is considered sensitive and requests that these materials be held by the Commission as confidential for a period of not less than 18 months. business.

Mr. Stamm, Ms. Rufat and Mr. Del Cueto report FPL maintains the confidentiality of this material.

Duration of the Confidential Classification Period

FPL requests that the material be granted confidential classification for at least 18 months. FPL goes on to request that this material be returned to the utility once this information is no longer needed for the Commission to conduct its business. However we note audit reports and the related working papers for this type of audit are retained on file by the Commission for 25 years.

According to the provisions of Section 366.093(4), F.S., absent good cause shown, confidential classification is limited to 18 months. Without cause shown for a longer period, we recommend that the period of classification be set as 18 months. As deemed necessary, the utility may request an extension of the confidential classification before the period tolls.

Staff Work Paper Number	Page(s)	Line(s)	Recommend	Type of Information Classified Confidential
Documents 11852-01 and 12244-01				
WP 1 – Report	8	9-10; Col B, 14,17,19; Col C, 14,17,21	Grant	Sensitive competitive information pertaining to FiberNet
WP 1 – Report	9	Col A, 15,21,32; Col B, 8-9,14-16, 18,21-22,27-29, 32-33,35; Col C, 8-9,14-16, 18,21-22,27-29,32,36	Grant	Sensitive competitive information pertaining to FiberNet
WP 1 – Report	10	Col B&C, 9-17, 19-21,23-27,29-30,32,34	Grant	Sensitive competitive information pertaining to FiberNet
WP 1 – Report	11	Col A, 11; Col B, 8-10,14,16-18 Col C, 8,12-15	Grant	Sensitive competitive information pertaining to FiberNet
Documents 11853-01 and 12244-01				
5	1	11	Grant	Sensitive competitive information pertaining to FiberNet
5	2	3,12,18,23,37	Grant	Sensitive competitive information pertaining to FiberNet
5	3	1,3	Grant	Sensitive competitive information pertaining to FiberNet
9	1-5	All	Grant	Internal Audit Controls and Reports

Staff Work Paper Number	Page(s)	Line(s)	Recommend	Type of Information Classified Confidential
Documents 11853-01 and 12244-01				
9-1	1	10-14	Grant	Internal Audit Controls and Reports
9-1/1	1	4-8	Grant	Internal Audit Controls and Reports
9-1/2	1	All	Grant	Sensitive competitive information pertaining to FPL
9-1/2-1	1	All	Grant	Sensitive competitive information pertaining to FPL
43	1	21-22; Col B, 13-20,23-25	Grant	Sensitive competitive information pertaining to FiberNet
43	2	13,21,32; Col A, 15,29; Col B, 14-16,25-30	Grant	Sensitive competitive information pertaining to FiberNet
43	3	17,25,35; Col A, 12,14,32; Col B, 11-15,27-33;	Grant	Sensitive competitive information pertaining to FiberNet
43	5	3,8-10; Col B, 12-21	Grant	Sensitive competitive information pertaining to FiberNet
43	6	Col B, 8-11,14	Grant	Sensitive competitive information pertaining to FiberNet
43	7	3-6	Grant	Sensitive competitive information pertaining to FiberNet

Staff Work Paper Number	Page(s)	Line(s)	Recommend	Type of Information Classified Confidential
Documents 11853-01 and 12244-01				
43	8	9-10; Col B, 14,17,19; Col C, 14,17,21	Grant	Sensitive competitive information pertaining to FiberNet
43-1	1	Col A, 9,16,24,27, 41-42; Col B, 46-50; Col C, 4-5,7-10, 12-17,19-34,36-44, 48-49;	Grant	Sensitive competitive information pertaining to FiberNet
43-1	2	Col A, 11,17-18, 23-24,34,36,38; Col B, 10-11,14-18, 20-24,27-37; Col C, 10-11,14-18, 20-24,27-34,38	Grant	Sensitive competitive information pertaining to FiberNet
43-1	3	Col B, 11-19,21-29, 31-36;	Grant	Sensitive competitive information pertaining to FiberNet
43-1	4	Col A, 13; Col B, 10-13,16, 18-20; Col C, 10,13-17	Grant	Sensitive competitive information pertaining to FiberNet
43-2	1	Col A, 13,17-18; Col B, 3-11,13-15, 17-20,22-26;	Grant	Sensitive competitive information pertaining to FiberNet

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Documents 11853-01 and 12244-01				
43-2/1	1-18	Col A-B, 1-46	Grant	Sensitive competitive information pertaining to FiberNet
43-2/1	19	Col A-B, 1-15	Grant	Sensitive competitive information pertaining to FiberNet
43-2/2	1	Col A-B, 1-46	Grant	Sensitive competitive information pertaining to FiberNet
43-2/2	2	Col A-B, 1-47	Grant	Sensitive competitive information pertaining to FiberNet
43-2/2	3	Col A-B, 1-6	Grant	Sensitive competitive information pertaining to FiberNet
43-3	1	Col A, 8,10,12-13; Col B, 1-8,10,12-13	Grant	Sensitive competitive information pertaining to FiberNet
43-3/1	1	Col A-D, 1-40	Grant	Sensitive competitive information pertaining to FiberNet
43-3/1	2	Col A-D, 1-49	Grant	Sensitive competitive information pertaining to FiberNet
43-3/1	3	Col A-D, 1-45	Grant	Sensitive competitive information pertaining to FiberNet
43-3/1	4	Col A-D, 1-50	Grant	Sensitive competitive information pertaining to FiberNet

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Documents 11853-01 and 12244-01				
43-3/1	5	Col A-D, 1-46	Grant	Sensitive competitive information pertaining to FiberNet
43-3/1	6	Col A-D, 1-48	Grant	Sensitive competitive information pertaining to FiberNet
43-3/1	7	Col A-D, 1-49	Grant	Sensitive competitive information pertaining to FiberNet
43-3/1	8	Col A-D, 1-27	Grant	Sensitive competitive information pertaining to FiberNet
43-3/2	1	Col A-D, 1-51	Grant	Sensitive competitive information pertaining to FiberNet
43-3/2	2	Col A-D, 1-49	Grant	Sensitive competitive information pertaining to FiberNet
43-3/2	3	Col A-D, 1-46	Grant	Sensitive competitive information pertaining to FiberNet
43-3/2	4	Col A-D, 1-44	Grant	Sensitive competitive information pertaining to FiberNet
43-3	1	Col A-D, 1-53	Grant	Sensitive competitive information pertaining to FiberNet
43-4	1	Col A-D, 1-47	Grant	Sensitive competitive information pertaining to FiberNet

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Documents 11853-01 and 12244-01				
43-4	1	Col A, 1-15	Grant	Sensitive competitive information pertaining to FiberNet
43-4	2-7	Col A-B, 1-46	Grant	Sensitive competitive information pertaining to FiberNet
43-4	8	Col A-B, 1-29	Grant	Sensitive competitive information pertaining to FiberNet
43-4/1	1	Col A-B, 1-46	Grant	Sensitive competitive information pertaining to FiberNet
43-4/1	2	Col A-B, 1-48	Grant	Sensitive competitive information pertaining to FiberNet
43-4/1	3	Col A-B, 1-47	Grant	Sensitive competitive information pertaining to FiberNet
43-4/1	4	Col A-B, 1-31	Grant	Sensitive competitive information pertaining to FiberNet
43-5	1	Col A-B, 1-46	Grant	Sensitive competitive information pertaining to FiberNet
43-5	2-3	Col A-B, 1-47	Grant	Sensitive competitive information pertaining to FiberNet
43-5	4	Col A-B, 1-47; Col C, 1,9	Grant	Sensitive competitive information pertaining to FiberNet

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Documents 11853-01 and 12244-01				
43-5	5	Col A, 30; Col B, 1-28; Col C, 1-29; Col D, 27	Grant	Sensitive competitive information pertaining to FiberNet
43-6	1	6-9,18-21	Grant	Sensitive competitive information pertaining to FiberNet
43-6	2	Col A-O, 2-3	Grant	Sensitive competitive information pertaining to FiberNet
43-6	3	Col, A-P, 3-4	Grant	Sensitive competitive information pertaining to FiberNet
43-6	4	Col A-Q, 3-5	Grant	Sensitive competitive information pertaining to FiberNet
43-6	5	Col A-J, 3-5	Grant	Sensitive competitive information pertaining to FiberNet
43-6	6-7	Col A-P, 3-4	Grant	Sensitive competitive information pertaining to FiberNet
43-6	8	Col A-P, 3-5	Grant	Sensitive competitive information pertaining to FiberNet
43-6	9	Col A-Q, 3-4	Grant	Sensitive competitive information pertaining to FiberNet

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Documents 11853-01 and 12244-01				
43-6	10-12	Col A-M, 3-5	Grant	Sensitive competitive information pertaining to FiberNet
43-6	13	Col A-I, 3-5	Grant	Sensitive competitive information pertaining to FiberNet
43-6	14	Col A-G, 3-5	Grant	Sensitive competitive information pertaining to FiberNet
43-6	15	Col A-J, 3-5	Grant	Sensitive competitive information pertaining to FiberNet
43-6	16	Col A-N, 3-4	Grant	Sensitive competitive information pertaining to FiberNet
43-6	17	Col A-F, 3-5	Grant	Sensitive competitive information pertaining to FiberNet
43-6	18	Col A-G, 2-3	Grant	Sensitive competitive information pertaining to FiberNet
43-6	19	Col A-H, 3-5	Grant	Sensitive competitive information pertaining to FiberNet
43-6/1	1-3	All	Grant	Sensitive competitive information pertaining to FiberNet
43-10	1	2-4,6-8; Col B, 10-12	Grant	Sensitive competitive information pertaining to FiberNet

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Documents 11853-01 and 12244-01				
43-10/1	1	12,14,22	Grant	Sensitive competitive information pertaining to FiberNet
43-10/1	2	1-22	Grant	Sensitive competitive information pertaining to FiberNet
43-10/1	3	1-3	Grant	Sensitive competitive information pertaining to FiberNet
43-10/1	4	Col A, 5-16	Grant	Sensitive competitive information pertaining to FiberNet
43-10/1	5	Col A, 12; Col B, 5-11,16,25-26; Col C, 3,5,8-9,11, 17-24,26; Col D, 3,5-11,16,19, 22,24-25	Grant	Sensitive competitive information pertaining to FiberNet
43-10/1	6	7,11,12	Grant	Sensitive competitive information pertaining to FiberNet
43-10/2	1	1-4	Grant	Sensitive competitive information pertaining to FiberNet
43-10/2	2	1-23	Grant	Sensitive competitive information pertaining to FiberNet
43-10/2	3	Col A, 6-16,20-21	Grant	Sensitive competitive information pertaining to FiberNet

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Documents 11853-01 and 12244-01				
43-10/2	4	Col A, 5-11,15,24-25; Col B, 3,5,8-9,11, 16-23,25; Col C, 3,5-11,15,18, 21,23-24; Col D, 15,18,21,23-24; Col E, 18	Grant	Sensitive competitive information pertaining to FiberNet
43-10/2	5	11-12	Grant	Sensitive competitive information pertaining to FiberNet
43-11	1	25	Grant	Sensitive competitive information pertaining to FiberNet

A temporary copy of this recommendation will be held at I:12244-01.RAF for a short period.

CC: Division of Regulatory Oversight (Welch)
 Division of Commission Clerk and Administrative Services (Flynn)