



Public Service Commission

RFR 12-14-00

~~M-E-M-O-R-A-N-D-U-M-
FPSC, CLK - CORRESPONDENCE~~

~~Administrative Parties Consumer~~

RECORDS AND REPORTING

00 DEC 14 AM 10:07

RECEIVED-FPSC

DATE: December 11, 2000
TO: Division of Appeals (Bellak)
FROM: Division of Regulatory Oversight (Freeman, Vandiver)
RE: Docket 001564-EI, Recommendation concerning Florida Power & Light Company's (FPL's) request for confidential classification for portions of the staff's working papers prepared during the preparation of audit report numbered 00-222-4-1, FPL Operating Revenues, Documents 12782-00 and 13160-00

DOCUMENT NO. 16256-01

DISTRIBUTION: F

On September 27, 2000, when copies of certain portions of staff's working papers prepared regarding the FPL Operating Revenue audit were delivered to FPL at the audit exit conference, the utility requested that these materials be temporary excepted from public access in accordance with the provisions of Rule 25-22.006(3)(a)(2), Florida Administrative Code (FAC). On October 6, 2000, staff filed document 12782-00, consisting of those specified portions of the working papers,

On October 17, 2000, 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. The utility's request includes redacted copies for public inspection (Exhibit B, document 13159-00) and highlighted copies (document 13160-00).

Documents 12782-00 and 13160-00 are currently held by the Commission's Division of Records and Reporting as confidential pending resolution of FPL's request for confidential classification.

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. Subsection 366.093(3)(b),(d) and (e), F.S. provide the following exemptions:

“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....

(d) Information concerning bids or other contractual data, the disclosure of which would impair the efforts of the public utility or its affiliates to contract for goods and services on favorable terms.

(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. Internal audits or audit reports;

FPL witness Rick Del Cueto, Manager, Internal Auditing, asserts this material consists of information regarding auditing controls or information taken from the reports of internal auditors.

Analysis of the Request (continued)

2. FiberNet's financial projections;
3. FiberNet's operating results;
4. Contract and pricing information;
5. Cost data; and
6. 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.

FPL witness Sol Stamm, FPL FiberNet, LLC, ("FiberNet") Controller, reports the information concerning FiberNet's operations described above, if released, would provide competitors an unfair advantage and would impair FiberNet's ability to enter into contracts on commercially favorable terms.

Witnesses Cueto and Stamm further report FPL has maintained the confidentiality of this information.

Staff's reading of the sensitive material reveals it is information regarding internal audits, internal auditing controls or sensitive contractual information release of which could cause the utility, the provider of the information or the ratepayer harm. We therefore recommend that a confidential classification be granted. Our recommendation by document is detailed below.

Duration of the Confidential Classification Period

The utility requests that the material be granted confidential classification for at least 18 months and that the material be returned to the utility when it is no longer needed by the Commission. The Commission's record retention for this type of audit material is 25 years.

According to the provisions of Section 366.093(4), F.S., absent good cause shown for a longer period of protection, a confidential classification is limited to 18 months. We therefore recommend that the period of classification be set as 18 months. The utility may apply for an extension of this 18-month period before the confidential protection tolls.

Detailed Recommendation (as found)

Staff Work Paper Number	Page(s)	Line(s)	Recommend	Type of Information Classified Confidential
Documents 12782-00 and 13160-00				
9	1	1-3	Grant	Internal auditing controls or report of internal auditor
9	2	1-32	Grant	Internal auditing controls or report of internal auditor
9	3	1-11 Col A-C, lines 12-38	Grant	Internal auditing controls or report of internal auditor
9	4	1-2 Col A-C lines 3-24	Grant	Internal auditing controls or report of internal auditor
9	5	1-37	Grant	Internal auditing controls or report of internal auditor
9	6	1-38	Grant	Internal auditing controls or report of internal auditor
9	7	1-36	Grant	Internal auditing controls or report of internal auditor
9	8	1-35	Grant	Internal auditing controls or report of internal auditor
9	9	1-41	Grant	Internal auditing controls or report of internal auditor

Staff Work Paper Number	Page(s)	Line(s)	Recommend	Type of Information Classified Confidential
9	10	1-37	Grant	Internal auditing controls or report of internal auditor
9	11	1-32	Grant	Internal auditing controls or report of internal auditor
9	12	1-32	Grant	Internal auditing controls or report of internal auditor
9	13	1-22	Grant	Internal auditing controls or report of internal auditor
9	14	Col A-E, lines 3-23	Grant	Internal auditing controls or report of internal auditor
9	15	Col A, lines 2-18 Col B, lines 2-13 Col C, lines 2-7	Grant	Internal auditing controls or report of internal auditor
9	16	Col A-D, lines 2-50	Grant	Internal auditing controls or report of internal auditor
9	17	Col A-F, lines 5-52	Grant	Internal auditing controls or report of internal auditor
10-1	Request 4	1,2,4-7	Grant	Contractual information relating to the operation of a competitive business, the release of which could cause the provider of the information harm
10-1	Request 5	1,2,4-7	Grant	Contractual information relating to the operation of a competitive business, the release of which could cause the provider of the information harm
10-1	Request 8	4-7	Grant	Contractual information relating to the operation of a competitive business, the release of which could cause the provider of the information harm

Staff Work Paper Number	Page(s)	Line(s)	Recommend	Type of Information Classified Confidential
41-1/2-1/1	1	Col A-F, lines 1-7	Grant	Contractual information relating to the operation of a competitive business, the release of which could cause the provider of the information harm
41-1/2-1/2	1	Col A-P, lines 1-39	Grant	Contractual information relating to the operation of a competitive business, the release of which could cause the provider of the information harm
41-1/2-1/2	2	Col A-P, lines 1-38	Grant	Contractual information relating to the operation of a competitive business, the release of which could cause the provider of the information harm
41-1/2-1/3	1	1-6	Grant	Contractual information relating to the operation of a competitive business, the release of which could cause the provider of the information harm
41-1/2-1/3	2	1-5	Grant	Contractual information relating to the operation of a competitive business, the release of which could cause the provider of the information harm
41-1/2-1/4	1	1-16	Grant	Contractual information relating to the operation of a competitive business, the release of which could cause the provider of the information harm
41-1/2-1/4	2	Col A-B, lines 1-30 Col C-D, lines 18-30 Col E, lines 25-28 31-36	Grant	Contractual information relating to the operation of a competitive business, the release of which could cause the provider of the information harm

Staff Work Paper Number	Page(s)	Line(s)	Recommend	Type of Information Classified Confidential
41-1/2-1/4	3	Col A-B, lines 1-25 Col C-D, lines 18-25 Col E, lines 25-29 26-29	Grant	Contractual information relating to the operation of a competitive business, the release of which could cause the provider of the information harm
41-1/2-1/4	4	Col A-G, lines 1-31	Grant	Contractual information relating to the operation of a competitive business, the release of which could cause the provider of the information harm
41-1/2-1/5	1	1 Col B-F, lines 1-9	Grant	Contractual information relating to the operation of a competitive business, the release of which could cause the provider of the information harm
41-1/2-1/6	1	Col A-E, lines 1-35	Grant	Contractual information relating to the operation of a competitive business, the release of which could cause the provider of the information harm
41-1/2-1/6	2	Col A-B, line 1	Grant	Contractual information relating to the operation of a competitive business, the release of which could cause the provider of the information harm
41-1/2-1/6	3	Col A-E, lines 1-37	Grant	Contractual information relating to the operation of a competitive business, the release of which could cause the provider of the information harm
41-1/2-1/6	4	Col A-B, line 1	Grant	Contractual information relating to the operation of a competitive business, the release of which could cause the provider of the information harm

Staff Work Paper Number	Page(s)	Line(s)	Recommend	Type of Information Classified Confidential
41-1/2-1/6	5	Col A-E, lines 1-36	Grant	Contractual information relating to the operation of a competitive business, the release of which could cause the provider of the information harm
41-1/2-1/6	6	Col A-B, line 1	Grant	Contractual information relating to the operation of a competitive business, the release of which could cause the provider of the information harm
41-1/2-1/6	7	Col A-E, lines 1-37	Grant	Contractual information relating to the operation of a competitive business, the release of which could cause the provider of the information harm
41-1/2-1/6	8	Col A-B, line 1	Grant	Contractual information relating to the operation of a competitive business, the release of which could cause the provider of the information harm
41-1/2-1/6-1	1	1-3	Grant	Contractual information relating to the operation of a competitive business, the release of which could cause the provider of the information harm
41-1/2-1/6-1	2	1-4 Col A-D, lines 5-21	Grant	Contractual information relating to the operation of a competitive business, the release of which could cause the provider of the information harm
41-1/2-2	1	1 Col A-D, lines 2-6 7-11	Grant	Contractual information relating to the operation of a competitive business, the release of which could cause the provider of the information harm

Staff Work Paper Number	Page(s)	Line(s)	Recommend	Type of Information Classified Confidential
41-1/2-3		Lines 1-14	Grant	Contractual information relating to the operation of a competitive business, the release of which could cause the provider of the information harm

A temporary copy of this recommendation will be held at I:13160-00.RAF for a short time.

CC: Division of Regulatory Oversight (Pritchett, Welch)
Division of Records and Reporting (Flynn)

Case Assignment and Scheduling Record

Section 1 - Division of Records and Report... (RAR) Completes

Docket No. 001564-EI Date Docketed: 10/17/2000 Title: Request for confidential classification of certain material provided pursuant to Audit Control No. 00-222-4-1 by Florida Power & Light Company. Company: Florida Power & Light Company

Official Filing Date: Last Day to Suspend: Expiration:

Referred to: ADM AFA APP CAF CMP CMU EAG ECR GCL LEG PAI RAR (RGO) SER WAW ("()") indicates OPR

Section 2 - OPR Completes and returns to RAR in 10 workdays. Time Schedule

Program/Module A17 Staff Assignments OPR Staff D Vandiver, B Freeman Staff Counsel R Bellak

WARNING: THIS SCHEDULE IS AN INTERNAL PLANNING DOCUMENT. IT IS TENTATIVE AND SUBJECT TO REVISION. FOR UPDATES CONTACT THE RECORDS SECTION: (850) 413-6770 Current CASR revision level

0

Table with 3 columns: Item Number, Description, Due Dates (Previous, Current). Includes items like 'Recommendation to Appeals', 'Order on Confidentiality', and 'Close Docket or Revise CASR'.

Recommended assignments for hearing and/or deciding this case:

Full Commission X Commission Panel Hearing Examiner Staff

Date filed with RAR: 11/16/2000

Initials: OPR Staff Counsel

Section 3 - Chairman Completes

Assignments are as follows:

- Hearing Officer(s)

Table for Hearing Officer assignments with columns for Commissioners (ALL, DS, JC, JB, BZ, XX), Hrg. Exam., and Staff.

- Prehearing Officer

Table for Prehearing Officer assignments with columns for Commissioners (DS, JC, JB, BZ, XX), ADM, and Staff.

Where panels are assigned the senior Commissioner is Panel Chairman; the identical panel decides the case.

Where one Commissioner, a Hearing Examiner or a Staff Member is assigned the full Commission decides the case.

Approved: [Signature] Date: 11/16/2000



STATE OF FLORIDA

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



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: October 17, 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: 13160-00 (x-ref. DN 12782-00)

DESCRIPTION: Certain material in reference to staff audit
(Audit Control No. 00-222-4-1)

SOURCE: Florida Power & Light Company

DOCKET NO: 001564-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.

DOCUMENT NO.
16256-01

STATE OF FLORIDA

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



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

Public Service Commission

October 18, 2000

R. Wade Litchfield, Esquire
Florida Power & Light Company
700 Universe Boulevard
Juno Beach, Florida 33408-0420

Re: Docket No. 001564-EI

Dear Mr. Litchfield:

This will acknowledge receipt of a request for confidential of certain material provided pursuant to Audit Control No. 00-222-4-1, which was filed in this office on October 17, 2000 and assigned the above-referenced docket number. Appropriate staff members will be advised.

Mediation may be available to resolve any dispute in this docket. If mediation is conducted, it does not affect a substantially interested person's right to an administrative hearing. For more information, contact the Office of General Counsel at (850) 413-6248 or FAX (850) 413-7180.

Division of Records and Reporting
Florida Public Service Commission