



Public Service Commission

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

DATE: July 18, 2002
TO: Office of General Counsel (Echternacht)
FROM: Division of Auditing and Safety (Freeman, Vandiver)
RE: Docket 020003-GU, Purchased Gas Adjustment - Florida Public Utilities Company

Recommendation concerning the Florida Public Utilities Company (FPUC) request for confidential classification for a portion of staff working papers obtained during the audit numbered 02-032-4-3, entitled "Florida Public Utilities Company Purchased Gas Adjustment Clause Audit for the Year Ended December 31, 2001" Documents numbered 06210-02, 06328-02, and 07068-02

On June 7, 2002, when certain pages of staff's working papers prepared during the audit entitled "Florida Public Utilities Company Purchased Gas Adjustment Clause Audit for the Year Ended December 31, 2001" were delivered to FPUC 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 June 19, 2002, staff filed document 06328-02, consisting of those pages of the staff working papers identified as sensitive at the audit exit conference.

On June 14, 2002, the utility filed a request pursuant to Rule 25-22.006, FAC, and Section 366.093, Florida Statutes (F.S.), that selected pages of the supplemental staff audit report and working papers prepared by staff during the audit receive confidential classification. The utility's request includes redacted copies for public inspection (Document 06209-02) and full and complete copies of this material with the sensitive information highlighted (document 06210-02).

On July 9, 2002, after discussions with the staff, the utility modified its filing in this case correcting technical deficiencies. The modified filing includes revised copies for public inspection (Document 07067-02) and revised copies with the sensitive information highlighted (Document 07068-02). The modification only corrects and does not change the utility's original request.

Pursuant to Section 119.07, F.S., documents submitted to this Commission are public records. The only exceptions to this rule are specific statutory exemptions and exemptions granted by governmental agencies to the specific items of a statutory provision. Section 366.093(e), F.S., provides the following exemption:

US
DAF
CMP
COM
CTR
ECR
GCL
DPC
MMS
EC
OTH

DOCUMENT NUMBER-DATE

07627 JUL 23 08

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:....

(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, FPUC has the burden of demonstrating that information and materials provided to the staff during the supplemental audit 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.

While this matter is pending, the information identified as sensitive is held as confidential by the Division of Commission Clerk and Administrative Services.

### **Staff Analysis of the Request**

Reading the filing reveals the sensitive audit information consists of:

1. Information identifying customers, customer locations, or customer addresses;

FPUC asserts that release of this sensitive information “ would impair and harm the competitive business of FPUC and the customers of FPUC.”

The utility goes on to state that this information is considered proprietary and confidential by FPUC and this information is not disclosed by FPUC.

The Commission has consistently held customer usage information is “proprietary confidential business information” release of which would cause harm. See Commission Order 22851, dated April 23, 1990; Commission Order 96-1478, dated December 4; 1996, and Commission Order 00-1569, dated August 31, 2000.

### **Duration of the Confidential Classification Period**

Audit working papers obtained during this type of audit are retained on file by the Commission for 25 years. Since FPUC has not specified the length of the time these documents should be protected within this filing, provisions of Section 366.093(4), F.S., absent good cause shown, limit any confidential classification to 18 months. Without good cause shown for a longer period, we recommend that the period of classification be set as 18 months. The utility may request an extension of this period before it tolls.

**Staff Recommendation**

For the reasons presented above, and based upon reading the filing, we recommend the utility's requests be granted and the identified material be granted a confidential classification for 18 months.

A detailed recommendation regarding the material follows:

**Detailed Recommendation**

Staff Work Paper Number	Page(s)	Line(s)	Recommend	Type of Information Classified Confidential
Documents 06328-02, 06210-02 and 007068-02				
41-4/2-1	1	Col D, lines 1-22	Grant	Customer specific information reporting name and address
41-4/2-2	1	Col D, lines 23-45	Grant	Customer specific information reporting name and address
41-4/2-3	1	Cols B and E, lines 1-23	Grant	Customer specific information reporting name and address
41-4/2-4	1	Cols B and E, lines 1-20	Grant	Customer specific information reporting name and address
41-4/3	1	Cols C and E, 1-24	Grant	Customer specific information reporting name and address
41-4/3	2	Cols C and E, 1-29	Grant	Customer specific information reporting name and address
41-4/3	3	Cols C and E, 1-29	Grant	Customer specific information reporting name and address
41-4/3	4	Cols C and E, 1-28	Grant	Customer specific information reporting name and address
41-4/3	5	Cols C and E, 1-27	Grant	Customer specific information reporting name and address
41-4/3	6	Cols C and E, 1-3	Grant	Customer specific information reporting name and address
41-4/3-1	1-11	1,3	Grant	Customer specific information reporting name and address

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A temporary copy of this recommendation will be held at I:06210-02.RAF for a short period.

CC: Division of Auditing and Safety (Welch)  
Division of Commission Clerk and Administrative Services (Flynn)