



Public Service Commission
-M-E-M-O-R-A-N-D-U-M-

DATE: September 3, 2002
TO: Office of General Counsel (Echternacht)
FROM: Division of Auditing and Safety (Vandiver, Freeman)
RE: Docket 020001-EI, Recommendation concerning Florida Power and Light Company's (FPL's) request for confidential classification for materials gathered during audit No. 02-044-4-1, entitled "FPL Capacity Cost Recovery Clause for the Year ended December 31, 2001", documents 06362-02 and 06955-02

On June 18, 2002, when copies of certain portions of staff's working papers prepared during FPL's Capacity Cost Recovery Clause audit for the year ended December 31, 2001, were delivered to FPL at the audit exit conference, the utility requested that these materials be temporarily exempted from public access in accordance with the provisions of Rule 25-22.006(3)(a)(2), Florida Administrative Code (FAC).

On June 20, 2002, staff filed document 06362-02 consisting of these materials.

On July 8, 2002, the utility filed a request pursuant to Rule 25-22.006, FAC, and Section 366.093, Florida Statutes (F.S.), that certain portions of the audit working papers prepared by the staff receive a confidential classification. The utility request includes redacted copies for public inspection (Exhibit B, document 06954-02) and copies with the sensitive information highlighted (document 06955-02).

On August 29, 2002, after discussions with the staff, FPL filed a revision to its request reducing the amount of material requested as confidential. This revision is incorporated into this recommendation.

Documents 06362-02 and 06955-02 are currently held by the Division of Commission Clerk and Administrative Services in a temporary confidential classification pending resolution of FPL's request.

In accordance with Section 119.07, F.S., documents submitted to this Commission are public records. The only exceptions to this law are specific statutory exceptions and exemptions granted by governmental agencies pursuant to the specific items of a statutory provision. Subsections 366.093 (c)(d) and (e), F.S. provide the following exemptions:

- AUS
CAF
CMP
COM
CTR
ECR
GCL
OPC
MMS
SEC
OTH

Marguerite

DOCUMENT NUMBER-DATE

09364 SEP-5 2002

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, and 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:....

(c) Security measures, systems or procedures.

(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 or 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 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. Contracts and contractual data such as pricing and other terms;
2. Customer names and related information;
3. Payment records;
4. Contractor Rates;

FPL Witnesses, Scott H. Borgmeyer, Director of Accounting and Finance for FPL's Energy Marketing and Trading Division, identifies sensitive contract and contract related information as well as sensitive competitive business information reported within staff's audit working papers. More specifically, Mr. Borgmeyer identifies as sensitive security measures certain accounting handbook information. Mr. Borgmeyer identifies [electrical] transmission agreements as sensitive contractual information. Lastly, Mr. Borgmeyer identifies as sensitive competitive business information: May purchases, sales and sales invoices; information concerning transmission of electricity and its cost to include summary reports; short term purchase information; payment invoices and a purchase statement; and certain July estimates and August transactions.

5. Proprietary bank account information.

FPL witness Osvaldo J. Lom, FPL supervisor, Purchased Power Administration, identifies sensitive proprietary bank account information and asserts this material represents a security measure. Mr. Lom also identifies sensitive contract related information and asserts release of this contract information may impair FPL's competitive business and impair FPL's ability to contract on favorable terms. More specifically Mr. Lom identifies sensitive security information contained within staff's working papers concerning April estimates and results, May estimates, June estimates and results, and July estimates.

FPL asserts all material marked as sensitive within this filing is private and has not been disclosed.

**Length of the Classification Period**

FPL requests this information be returned once it is no longer needed for Commission business.

Audit reports and related audit working papers of this nature are retained by the Commission for 25 years. Section 366.093(4), F.S., limits the length of any confidential classification to 18 months, unless cause is shown for allowing a longer period of protection. Since cause has not been shown for a longer period of protection within this filing, we recommend any confidential classification should be limited to 18 months. If the utility finds additional protection is needed, an extension may be filed before any granted protection period tolls.

Staff's reading of the sensitive material reveals it is sensitive material regarding contracts, security measures or competitive business information release of which could cause harm. We therefore recommend the utility's request for confidential classification be granted for 18 months. A detailed recommendation is provided below:

**Detailed Staff Recommendation (As Found)**

Staff Work Paper	Page(s)	Lines(s)	Recommend	Type of Information Classified Confidential
Documents 06362-02 and 06955-02				
42-1/1-2	1-2	All	Grant	Sensitive Competitive Business Information
42-1/4	1	Col E, 3-24	Grant	Sensitive Competitive Business Information
42-1/4-1	1	All	Grant	Sensitive Competitive Business Information
42-3	1	Col C, 2-7; Lines 8-37	Grant	Security Measures
42-3	2	Col C, 2-7; 8-39	Grant	Security Measures
42-3	3	Col C, 2-7; Lines 8-28	Grant	Security Measures
43-1/1-1	1	Lines 11-13; Col D, 15-21	Grant	Security Measures
43-1/2-1	1	Lines 10-12; Col C, 13-20	Grant	Security Measures
43-1/2-2	1	Lines 10-12; Col C, 14-21	Grant	Security Measures
43-2/1-1	1	Lines 10-12; Col C, 14-21	Grant	Security Measures
43-2/2-1	1	Lines 11-13; Col D, 15-22	Grant	Security Measures

Staff Work Paper	Page(s)	Lines(s)	Recommend	Type of Information Classified Confidential
Documents 06362-02 and 06955-02				
43-2/2-2	1	Lines 11-13; Col C, 15-22	Grant	Security Measures
44-1/1	1	Col A, 2,5-6; Col B-C, 7: Col E-F, 7; Lines 13,15-21	Grant	Sensitive Competitive Business Information
44-1/1-1	1	Col E, 13-31	Grant	Sensitive Competitive Business Information
44-1/1-2	1	Col E, 12-29	Grant	Sensitive Competitive Business Information
44-1/1-2/1	1	1,3-8	Grant	Sensitive Competitive Business Information
44-1/1-2/2	1	Col K, 1-3	Grant	Sensitive Competitive Business Information
44-1/1-2/2	2	Col L, 3-46	Grant	Sensitive Competitive Business Information
44-1/1-3	1	All	Grant	Sensitive Competitive Business Information
44-2/1	1	Col A, 2 Lines 5-6 Col B-C, 7 Col E-F, 7 Lines 13,15-21	Grant	Sensitive Competitive Business Information
44-2/1-1	1	Col I, 3-24	Grant	Sensitive Competitive Business Information

Staff Work Paper	Page(s)	Lines(s)	Recommend	Type of Information Classified Confidential
Documents 06362-02 and 06955-02				
44-2/1-2	1	Col B, 11-29	Grant	Sensitive Competitive Business Information
44-2/1-2/1	1	All	Grant	Sensitive Competitive Business Information
45	1	All	Grant	Sensitive Competitive Business Information
45-1/1	1	Col B-C, 3-8 Lines 9-70	Grant	Sensitive Competitive Business Information
45-1/1	2	All	Grant	Sensitive Competitive Business Information
45-1/1-1	1	Lines 1-2; Col A, 3; Col D, 6-8; Lines 8-44	Grant	Sensitive Competitive Business Information
45-1/1-1	2	3-25	Grant	Sensitive Competitive Business Information
45-1/1-1/1	1-9	All	Grant	Sensitive Contractual Business Information
45-1/1-2	1	All	Grant	Sensitive Competitive Business Information
45-1/1-2	2	3-25	Grant	Sensitive Competitive Business Information
45-1/1-2/1	1-3	All	Grant	Sensitive Contractual Business Information
45-2/1	1-2	All	Grant	Sensitive Competitive Business Information
45-2/1-1	1	Col C-D, 4-7; Lines 7-41	Grant	Sensitive Competitive Business Information

Staff Work Paper	Page(s)	Lines(s)	Recommend	Type of Information Classified Confidential
Documents 06362-02 and 06955-02				
45-2/1-2	1	All	Grant	Sensitive Competitive Business Information
45-2/1-3	1	3-32	Grant	Sensitive Competitive Business Information
45-2/1-3	2	All	Grant	Sensitive Competitive Business Information
45-2/1-3/1	1	Lines 2-5, 8-35	Grant	Sensitive Competitive Business Information
45-2/1-3/1	2	All	Grant	Sensitive Competitive Business Information
45-2/2	1	All	Grant	Sensitive Competitive Business Information

A temporary copy of this recommendation will be held at I:06955-02.ra for a short time.

CC: Bureau of Records and Hearing Services (Flynn)  
 Bureau of Auditing and Safety (Welch)

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