

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Energy conservation cost
recovery clause.

DOCKET NO. 030002-EG
ORDER NO. PSC-03-1437-CFO-EG
ISSUED: December 19, 2003

ORDER GRANTING REQUEST FOR EXTENSION OF
CONFIDENTIAL CLASSIFICATION GRANTED BY
ORDER NO. PSC-01-2249-CFO-EG

On October 20, 1998, copies of certain portions of staff's working papers obtained or prepared during the Florida Power and Light (FPL) energy conservation cost recovery audit for the year ended March 31, 1998, were delivered to FPL at the audit exit conference. FPL 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. These work papers were filed with the Commission by staff on October 26, 1998, as Document No. 11948-98.

On November 10, 1998, pursuant to Section 366.093, Florida Statutes, and Rule 25-22.006, Florida Administrative Code, FPL filed with the Commission its request that selected portions of the working papers prepared by staff during the above-referenced audit receive confidential classification. FPL's request included redacted public copies (Document No. 12621-98), and copies with the sensitive information highlighted (Document No. 12622-98), as required by Rule 25-22.006, Florida Administrative Code. By Order No. PSC-00-0194-CFO-EG, issued January 26, 2000, the Commission granted FPL's request for an eighteen-month confidential classification to this audit material, and by Order No. PSC-01-2249-CFO-EG, issued November 16, 2001, the Commission granted FPL's request for an eighteen-month extension of this confidential classification.

On October 1, 2001, Commission staff requested that 36 audit working papers (Working Paper 43-9 series) contained in the material that had been granted confidential classification be returned to FPL. These audit papers contained social security numbers of individuals which were no longer needed by staff to support the audit conclusions. Accordingly, these audit papers have been returned to FPL.

DOCUMENT ACCEPTED

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FPSO-CONFIDENTIAL

On May 15, 2003, FPL filed its Second Request for Extension of Confidential Classification Granted by Order No. PSC-01-2249-CFO-EG. Upon further discussions with staff, on September 5, 2003, FPL filed a revision of its request. The revision filed by FPL was necessary in order to recognize that the Working Papers 43-9 series had already been returned to FPL, and to indicate FPL's intention to maintain an extended confidential status for the names of non-governmental customers and account numbers of customers associated with electric usage. Document Nos. 11948-98 and 12622-98, which are the subject of FPL's request, are currently being held by the Commission's Division of Clerk and Administrative Services as confidential, pending resolution of FPL's request for extension of confidential classification.

In its request, FPL states that the period of confidential classification granted by the Commission will soon expire, and that some of the information that was the subject of FPL's November 10, 1998, Request and FPL's First Request for Extension, warrants continued treatment as proprietary and confidential business information within the meaning of Section 366.093, Florida Statutes.

FPL requests an extension of the confidential classification pursuant to Rule 25-22.006(9)(c), Florida Administrative Code, on the basis that the materials at issue still contain information that is, or is related to internal audit reports, customer account information, contract pricing information, and employee personnel information unrelated to compensation, duties, qualifications, or responsibilities. FPL maintains that nothing has changed since the issuance of Order No. PSC-01-2249-CFO-EG to render this information stale or public such that continued confidential treatment would not be appropriate.

Accordingly, FPL requests that the information, as detailed in its Revised Second Request for Extension of Confidential Classification Granted by Order No. PSC-01-2249-CFO-EG, be accorded confidential classification for an additional eighteen-month period. In addition, FPL requests that the information be returned to FPL as soon as it is no longer necessary for the Commission to conduct its business.

Ruling

Upon review, I find it appropriate to grant FPL's request, since the information continues to meet the criteria to be designated as proprietary confidential business information as set out in Section 366.093, Florida Statutes. According to Section 366.093(4), Florida Statutes, absent good cause shown, confidential classification is limited to eighteen months. In this instance, I find that FPL has shown the need for a longer period of confidential classification for the 1998 information concerning customer-specific account information associated with electric usage. FPL has demonstrated its intent to protect this information by repeatedly filing for an extension of confidential classification of this information, and has also provided a reasonable explanation as to why this information remains sensitive for five years, and why it will remain so for a reasonable time in the future. This is consistent with past Commission action when the Commission considered how long confidential classification should last for commercial business information that remained sensitive for an extended period. See, Order No. PSC 94-1224-CFO-EI, issued October 6, 1994, in Docket No. 950001-EI, In re: Fuel and Purchased Power Cost Recovery Clause and Generating Performance Incentive Factor, wherein the Commission found a five year period to be a reasonable period of time to grant confidential classification of material which remained sensitive for an extended period.

The information for which a five year extension of confidential classification is granted is as follows:

Staff Work Paper Number	Page(s)	Line(s)	Disposition	Type of Information Classified Confidential
44-1/1-1/3	1	1-19	Grant	Customer account information associated with usage
44-1/1-1/3	2	1-21	Grant	Customer account information associated with usage

Staff Work Paper Number	Page(s)	Line(s)	Disposition	Type of Information Classified Confidential
44-1/1-1/3	3	1-19	Grant	Customer account information associated with usage
44-1/1-1/3	4	1-24	Grant	Customer account information associated with usage
44-1/1-1/3	5	1-22	Grant	Customer account information associated with usage
44-1/1-1/3	6	1-20	Grant	Customer account information associated with usage
44-1/1-1/3	7	1-20	Grant	Customer account information associated with usage
44-1/1-1/3	8	1-25	Grant	Customer account information associated with usage
44-1/1-1/3	9	1-22	Grant	Customer account information associated with usage
44-1/1-1/3	10	1-22	Grant	Customer account information associated with usage
44-1/1-1/3	11	1-20	Grant	Customer account information associated with usage
44-1/1-1/3	12	1-20	Grant	Customer account information associated with usage

Staff Work Paper Number	Page(s)	Line(s)	Disposition	Type of Information Classified Confidential
44-1/1-1/3	13	1-22	Grant	Customer account information associated with usage
44-1/1-1/3	14	1-23	Grant	Customer account information associated with usage
44-1/1-1/3	15	1-22	Grant	Customer account information associated with usage
44-1/1-1/3	16	1-18	Grant	Customer account information associated with usage
44-1/1-1/3	17	1-18	Grant	Customer account information associated with usage
44-1/1-1/3	18	1-18	Grant	Customer account information associated with usage
44-1/1-1/3	19	1-20	Grant	Customer account information associated with usage
44-1/1-1/3	20	1-24	Grant	Customer account information associated with usage
44-1/1-1/3	21	1-25	Grant	Customer account information associated with usage
44-1/1-1/3	22	1-22	Grant	Customer account information associated with usage

Staff Work Paper Number	Page(s)	Line(s)	Disposition	Type of Information Classified Confidential
44-1/1-1/3	23	1-20	Grant	Customer account information associated with usage
44-1/1-1/3	24	1-21	Grant	Customer account information associated with usage
44-1/1-1/3	25	1-26	Grant	Customer account information associated with usage
44-1/1-1/3	26	1-27	Grant	Customer account information associated with usage
44-1/1-1/3	27	1-27	Grant	Customer account information associated with usage
44-1/1-1/3	28	1-30	Grant	Customer account information associated with usage
44-1/1-1/3	29	1-30	Grant	Customer account information associated with usage
44-1/1-1/3	30	1-28	Grant	Customer account information associated with usage
44-1/1-1/3	31	1-24	Grant	Customer account information associated with usage
44-1/1-1/3	32	1-26	Grant	Customer account information associated with usage

Staff Work Paper Number	Page(s)	Line(s)	Disposition	Type of Information Classified Confidential
44-1/1-1/3	33	1-26	Grant	Customer account information associated with usage
44-1/1-1/3	34	1-10	Grant	Customer account information associated with usage

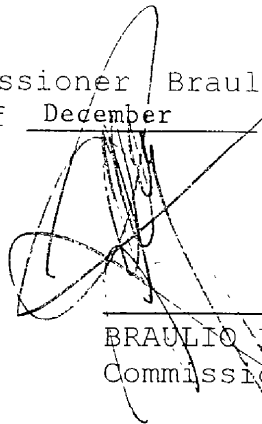
Based on the foregoing, it is

ORDERED by Commissioner Braulio L. Baez, as Prehearing Officer, that the information described in the body of this Order and contained in Document Nos. 11948-98 and 12622-98 shall be granted an additional five years of confidential classification. It is further

ORDERED that pursuant to Rule 25-22.066, Florida Administrative Code, and Section 366.093(3), Florida Statutes, confidentiality granted to the documents specified herein shall expire five years from the date of the issuance of this Order in the absence of renewed request for confidentiality. It is further

ORDERED that this Order will be the only notification by the Commission to the parties concerning the expiration of the confidentiality time period.

By ORDER of Commissioner Braulio L. Baez, as Prehearing Officer, this 19th day of December, 2003.

 for Commissioner Braulio L. Baez

BRAULIO L. BAEZ
Commissioner and Prehearing Officer

(S E A L)

LAH

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

Mediation may be available on a case-by-case basis. If mediation is conducted, it does not affect a substantially interested person's right to a hearing.

Any party adversely affected by this order, which is preliminary, procedural or intermediate in nature, may request: (1) reconsideration within 10 days pursuant to Rule 25-22.0376, Florida Administrative Code; or (2) judicial review by the Florida Supreme Court, in the case of an electric, gas or telephone utility, or the First District Court of Appeal, in the case of a water or wastewater utility. A motion for reconsideration shall be filed with the Director, Division of the Commission Clerk and Administrative Services, in the form prescribed by Rule 25-22.060, Florida Administrative Code. Judicial review of a preliminary, procedural

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or intermediate ruling or order is available if review of the final action will not provide an adequate remedy. Such review may be requested from the appropriate court, as described above, pursuant to Rule 9.100, Florida Rules of Appellate Procedure.