

BEFORE THE PUBLIC SERVICE COMMISSION

In re: Fuel and purchased power cost recovery clause with generating performance incentive factor.

DOCKET NO. 040001-EI
ORDER NO. PSC-04-0630-CFO-EI
ISSUED: June 28, 2004

ORDER GRANTING CONFIDENTIAL CLASSIFICATION OF CERTAIN PORTIONS OF STAFF'S AUDIT REPORT AND WORKING PAPERS IN AUDIT NO. 02-340-4-1, "FLORIDA POWER & LIGHT COMPANY SECURITY AND HEDGING COSTS FOR THE YEAR ENDED DECEMBER 31, 2002"
(DOCUMENT NOS. 05788-03, 05789-03, AND 05593-04)

Florida Power & Light Company (FPL) requests confidential classification of certain portions of staff's audit report and working papers in Audit No. 02-340-4-1 (FPL Security and Hedging Costs for the Year ended December 31, 2002). FPL makes this request pursuant to Section 366.093, Florida Statutes, and Rule 25-22.006, Florida Administrative Code. This request for confidential classification was filed on July 14, 2003, and modified on May 14, 2004. The information for which FPL seeks confidential treatment is filed with the Commission as Document Nos. 05788-03, 05789-03, and 05593-04.

FPL requests that the following work papers be granted confidential classification:

Staff Working Paper Number	Page(s)	Line(s)	Type of Information Classified Confidential
Audit Report, Working Paper 1	Page 6	17-18	Sensitive competitive business information
9	1-7	All	Reports of an internal auditor which also contain sensitive information concerning security measures.
10-16	1	17-18	Sensitive information concerning security measures and competitive business information
10-23	1	12	Sensitive information concerning security measures and competitive business information
43	1	4	Sensitive information concerning security measures

DOCUMENT NUMBER-DATE

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Staff Working Paper Number	Page(s)	Line(s)	Type of Information Classified Confidential
43-1/3	1-18	All	Sensitive information concerning security measures
43-1/6	1-44	All	Sensitive information concerning security measures and competitive business information
43-1/6-3	1-4	All	Sensitive information concerning security measures and competitive business information
43-1/6-5	1-3	All	Sensitive information concerning security measures and competitive business information
43-1/6-5/1	1-4	All	Sensitive information concerning security measures and competitive business information
43-1/6-5/1-1	1-3	All	Sensitive information concerning security measures and competitive business information
43-1/8-1	1-33	All	Sensitive information concerning security measures
43-1/8-1/1	1	All	Sensitive information concerning security measures and competitive business information
43-1/8-1/1-1	1-4	All	Sensitive information concerning security measures
43-2/1-3/3	1	10-14	Sensitive information concerning security measures and competitive business information
45-1/1	1	Col. C, 6-12,14-21, 23-29; Col. D, 6-12,14-18, 21,23-29; Col. E, 19-20; Col. F, 6-12,14-21, 23-29	Sensitive contractual and competitive businesses information

Staff Working Paper Number	Page(s)	Line(s)	Type of Information Classified Confidential
45-2	1-2	Col. C, 6-12,16-22, 25-31; Col. D, 6-7,9,11-12, 16-21,23,25-28, 30-31; Col. E, 8,10,22-23, 29; Col. F, 6-12,16-23, 25-31	Sensitive contractual and competitive businesses information
45-2/1	1	Col. C, 3-6,8-9,17-19, 22,24-30: Col. D, 3-4,6,8-9, 17-20,22,24-27,29-30; Col. E, 3-6,8-9,11-13, 17-20,22,24-27, 29-30	Sensitive contractual and competitive businesses information
45-2/1-3	1	Col. B, 3-39,41-46; Col. C 3-39,41-50; Col. E, 3-13,41-43; Col. F, 3-13,41-43, 47-50	Sensitive contractual and competitive businesses information
45-2/1-4	1	Col. B, 3-27; Col. C, 3-28,30-31; Col. E, 4,23; Col. F. 23.30-31	Sensitive contractual and competitive businesses information

Staff Working Paper Number	Page(s)	Line(s)	Type of Information Classified Confidential
45-2/1-4 *	2	Col. B, 3-27; Col. C, 3-28,30-31; Col. E, 4,23; Col. F, 23,30-31	Sensitive contractual and competitive businesses information
45-2/1-4/1	1	Col. A, 5,10,17,22,27, 31; Col. B, 5,10,17,22, 27,31; Col. C, 3-5,10-11, 13-16	Sensitive contractual and competitive businesses information
45-2/1-5	1	Col. B, 3-12; Col. C, 3-16; Col. E, 3-5,11; Col F, 3-5,9,11,13-16	Sensitive contractual and competitive businesses information
45-2/2	1-2	All	Sensitive contractual and competitive businesses information
45-2/2-1	1-36	Col. A, 6	Sensitive contractual and competitive businesses information
45-2/2-2	1-4	All	Sensitive contractual and competitive businesses information
45-2/2-3	1	All	Sensitive contractual and competitive businesses information
45-2/2-4	1	All	Sensitive contractual and competitive businesses information
45-2/2-5/1	3	Col A, 6	Sensitive contractual and competitive businesses information
45-2/2-5/3	3	Col A, 6	Sensitive contractual and competitive businesses information
45-2/2-5/4	3-4	Col A, 6	Sensitive contractual and competitive businesses information

Staff Working Paper Number	Page(s)	Line(s)	Type of Information Classified Confidential
45-2/3	1	Cols. C-D,F, 6-13, 15-18,20-27,29-36	Sensitive contractual and competitive businesses information
45-2/3-1	1	Cols. B-C, 6-10	Sensitive contractual and competitive businesses information
45-2/3-2	1	Cols. B-E, 7-11	Sensitive contractual and competitive businesses information
45-2/4	1	All	Sensitive contractual and competitive businesses information
45-2/4-1	1	All	Sensitive contractual and competitive businesses information
45-2/6	1	1,3-6; Col. B, 11-12; Col. C, 8-12; Col D. 11-12,15; Col. E, 8-11,13-14	Sensitive contractual and competitive businesses information
45-2/6-1	1	Col. A, 1-6; Col. B, 7;	Sensitive contractual and competitive businesses information
45-2/6-1	2	Col. A, 1-8,12-13, 15-17,20-21,23; Col. B, 1-5, 9-12, 14-15,18-20,22-23; Cols. C-F, 1-5; 24-25	Sensitive contractual and competitive businesses information
45-2/6-1	3	Cols. B-C, 4-42; Col. D, 16-18	Sensitive contractual and competitive businesses information
45-2/6-2	1	Col. A, 1-19; Col. B, 5,8,12	Sensitive contractual and competitive businesses information
45-2/6-2	2	Col. A, 1-27	Sensitive contractual and competitive businesses information

Staff Working Paper Number	Page(s)	Line(s)	Type of Information Classified Confidential
45-2/6-2 *	3	Col A. 1-5	Sensitive contractual and competitive businesses information
45-2/6-3	1	Col. B, 2-5; Col. C, 1,7; Col. D, 3	Sensitive contractual and competitive businesses information
45-2/7	1	Cols. C-D, 1-18	Sensitive contractual and competitive businesses information
45-3	1	Col. C, 1-6,8-10,12-16,18-23	Sensitive contractual and competitive businesses information
45-4/1	1	10-11	Sensitive contractual and competitive businesses information
45-4/1	2	1-2, 14-15,27-28	Sensitive contractual and competitive businesses information
45-4/2	1	11	Sensitive contractual and competitive businesses information
45-5	1	2-4,6-12	Sensitive contractual and competitive businesses information
45-5	2	Cols. F,H-M, 3-47	Sensitive contractual and competitive businesses information
45-6	1	Cols. G,I-N, 3,6,9, 12-17	Sensitive contractual and competitive businesses information
45-9	1	3-5,11-12,15-16,19	Sensitive contractual and competitive businesses information
45-10	1	Col. A, 1-27	Sensitive contractual and competitive businesses information
45-10	2	Col. A, 1-20; Col. B, 19,21-22	Sensitive contractual and competitive businesses information
45-10	3	Col. A, 1-21	Sensitive contractual and competitive businesses information
45-10	4	Col. A, 1	Sensitive contractual and competitive businesses information
45-10/1	1	18-21,23-26	Sensitive contractual and competitive businesses information

Staff Working Paper Number	Page(s)	Line(s)	Type of Information Classified Confidential
45-10/1 [*]	2	5-7,11-22,25-26	Sensitive contractual and competitive businesses information
45-10/1	3	Cols. A-B, 1-4	Sensitive contractual and competitive businesses information
45-10/2	1-3	All	Sensitive contractual and competitive businesses information
45-10/2-1	1-3	All	Sensitive contractual and competitive businesses information

FPL seeks confidential classification for material that contains or constitutes internal audit reports and associated documents within the meaning of Section 366.093(3)(b), Florida Statutes. FPL asserts that portions of staff’s working papers contain information pertaining to its security measures, systems, and procedures, which are protected from disclosure pursuant to Section 366.093(3)(c), Florida Statutes. FPL states that access to system details could compromise security at the power plants. In addition, FPL asserts that access to details would also impair FPL’s competitive interests, the competitive interests of the vendors, and FPL’s ability to contract on favorable terms. FPL states that portions of staff’s working papers contain budgeted and actual detailed expenditure information concerning hedging. FPL also asserts that detailed expenditure information could provide inappropriate insight into the operations of its competitive business and its contracts with vendors.

FPL asserts that, pursuant to Section 366.093, Florida Statutes, such information is entitled to confidential classification and is exempt from the mandatory disclosure provisions of the public records law. FPL asserts that the sensitive contractual and competitive information, if disclosed, would impair the efforts of the public utility or its affiliates to contract for goods or services on favorable terms. Section 366.093(3)(d), Florida Statutes. FPL also asserts that the information for which it seeks confidential classification relates “to competitive interests, the disclosure of which would impair the competitive business of the provider of the information.” Section 366.093(3)(e), Florida Statutes.

CONCLUSION

Upon review, it appears that the information discussed above is proprietary confidential business information and should be granted confidential treatment to avoid harm to the company and its ratepayers. Based on the foregoing, FPL’s request for confidential treatment of Document Nos. 05788-03, 05789-03, and 05593-04 is granted.

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Pursuant to Section 366.093(4), Florida Statutes, the information for which confidential classification is granted herein shall remain protected from disclosure for a period of 18 months from the date of issuance of this order. At the conclusion of the 18 month period, the confidential information will no longer be exempt from Section 119.07(1), Florida Statutes, unless FPL or another affected person shows, and the Commission finds, that the records continue to contain proprietary confidential business information.

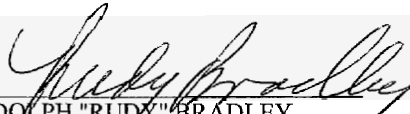
It is therefore

ORDERED by Commissioner Rudolph "Rudy" Bradley, as Prehearing Officer, that the information described in Florida Power and Light Company's request for confidential treatment of certain portions of staffs audit report, Audit No. 02-340-4-1, Document Nos. 05788-03, 05789-03, and 05593-04, is granted confidential classification. It is further

ORDERED that the information described within the body of this Order shall be granted confidential treatment for 18 months from the date of this Order. It is further

ORDERED that this Order will be the only notification by the Commission to the parties of the date of declassification of the materials discussed herein.

By ORDER of Commissioner Rudolph "Rudy" Bradley, as Prehearing Officer, this 28th day of June, 2004.


RUDOLPH "RUDY" BRADLEY
Commissioner and Prehearing Officer

(SEAL)

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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 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.