



ORIGINAL
Public Service Commission

CAPITAL CIRCLE OFFICE CENTER • 2540 SHUMARD OAK BOULEVARD
TALLAHASSEE, FLORIDA 32399-0850

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

DATE: May 10, 2006

TO: Cochran Keating, Attorney, Office of General Counsel

FROM: Division of Regulatory Compliance and Consumer Assistance (Freeman, Vandiver)^{F a}

RE: Docket 060001-EI, Recommendation concerning Florida Power & Light Company's (FPL) request for extension of confidential classification concerning a portion of the staff working papers prepared during "FPL Fuel Cost Recovery Clause Audit - Medium Priority Items for the Year Ended December 31, 2003", Audit Control No. 04-096-4-1, Documents Numbered 06511-04 and 06981-04

On June 3, 2004, when copies of certain portions of staff's audit report and working papers obtained or prepared during the "FPL Fuel Cost Recovery Clause Audit – Medium Priority Items for the Year Ended December 31, 2003", 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 10, 2004, staff filed documents 06511-04 consisting of those specified portions of the staff working papers.

On June 24, 2004, FPL filed a request pursuant to Section 366.093, Florida Statutes (F.S), and Rule 25-22.006, FAC, that selected portions of the working papers prepared by the staff during the audit receive confidential classification. The utility's request included redacted copies for public inspection (document 06982-04) and highlighted copies (document 06981-04).

On September 22, 2004, the Commission issued Order No. PSC-04-0927-CFO-EI granting FPL's request.

MP _____ On March 22, 2006, FPL requested that the confidential classification period granted by Commission Order No. PSC-04-0927-CFO-EI be extended for an additional 18 months.

OM _____

TR _____ Documents 06511-04 and 06981-04 are currently held by the Commission's Division of the Commission Clerk and Administrative Services as confidential pending resolution of FPL's request for an 18 month extension of confidential classification.

CR _____

CL _____

PC _____ 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. Subsections SA _____ 366.093(3)(b)(d) and (e), F.S., provide the following exemptions.

SA _____

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Subsection 366.093, F.S., provides; "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 the 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 or services on favorable terms.

(e) Information relating to competitive business 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 material consists of:

1. Information related to internal auditing reports and associated documents.

Subsection 366.093(b), F.S., provides that the Commission may grant a confidential classification to internal auditing controls and to the reports of internal auditors.

Witness Robert Onsgard, FPL Manager, Internal Auditing, identifies materials associated with FPL's internal audits as reported within staff working papers entitled: "Notes from Internal Auditor's Work papers", "List of All Internal Audits Performed in 2003", and "Portions of Document Request 13A."

After reading the material identified by witness Onsgard, we agree that release of this material during the next 18 months would reveal internal auditing controls.

2. FPL's fuel and purchased power transactions and the practices and procedures for such transactions.

Subsection 366.093(d), F. S., provides that the Commission may grant a confidential classification to sensitive information concerning contractual information to include bidding information if release of that information will impair the ability of the utility or its affiliates to contract on favorable terms.

Subsection 366.093(e), F. S., provides that the Commission may grant a confidential classification to sensitive information concerning competitive business interests if release of that information will harm the provider of that information.

Witness Osvaldo J. Lom, FPL Supervisor, Purchase Power Contracts, identifies sensitive materials associated with FPL's Fuel and Power Purchases as reported within staff working papers entitled: "Daily Energy Payment Summary."

Witness Gerald J. Yupp, Director of Wholesale Operations for FPL's Division of Energy Marketing and Trading, identifies sensitive materials associated with FPL's Fuel and Power Purchases as reported within staff working papers entitled: "Power Deal Lamda Report", "Payment Coupon", "Invoice", "ITS Received Schedule Report", "Purchase Statement", "Monthly Report of Cost and Quality of Fuel Oil for Electric Plants", "Summary of Hedging Transactions", "Hedging Filing", "Calculation of Gain Summary", "EMT Allocation of Oil Financial Instruments", "Swap Deal Entry", "Calculation of Gain/Loss Summary", "Example of Fuel Transaction Process", and "Energy Marketing and Trading."

After reading the material identified by witnesses Lom and Yupp, we agree that release of this material during the next 18 months would reasonably be expected to impair the ability of FPL or its affiliates to contract favorably for goods and services and release of this material could impair FPL's competitive business. We therefore recommend that the material be granted a confidential classification on the basis that the material meets the exemption provided by Subsection 366.093(3)(d) and (e), Florida Statutes.

Information Held as Confidential

To qualify as proprietary confidential business information the material must also be held as private and not be released to the public. FPL asserts that this information is proprietary confidential information. FPL witness Yupp asserts that information he identified is proprietary confidential information. FPL witnesses Onsgard and Lom assert FPL has maintained the confidentiality of those materials they have identified as sensitive.

Duration of the Confidential Classification Period

FPL requests that this material be returned to the utility once the information is no longer needed for the Commission to conduct its business.

According to the provisions of Section 366.093(4), F.S., absent good cause shown, confidential classification is limited to 18 months. Without cause shown for a longer period, we recommend that the period of confidential classification be set as 18 months. As deemed necessary, the utility may request an extension of the confidential classification before the period tolls.

Staff Recommendation

Based upon reading the filing, and for the reasons presented above, we recommend the utility's request be granted and that the identified material be granted an extension of confidential classification for 18 months.

A detailed recommendation follows:

Detailed Recommendation

| Staff Work Paper Number | Description | Page(s) | Line(s) | Recommend 18 Month Extension | Type of Information Classified Confidential |
|---------------------------------|---|---------|----------------------|------------------------------|---|
| Documents 06511-04 and 06981-04 | | | | | |
| 9 | Notes from internal auditor's work papers | 1-11 | All | Grant | Internal auditing controls and reports of internal auditors |
| 9-1 | List of all internal audits performed in 2003 | 1-2 | All | Grant | Internal auditing controls and reports of internal auditors |
| 10 | Document record requests | 3 | 12-20 | Grant | Internal auditing controls and reports of internal auditors |
| 44-1/1-1 | Daily energy payment summary | 1 | Cols A,B,C; 1-37 | Grant | Sensitive contractual and competitive business information |
| 44-1/1-3 | Daily energy payment summary | 1 | Cols A,B,C; 1-39 | Grant | Sensitive contractual and competitive business information |
| 45-1/1-1 | Power deal lambda report | 1 | Cols C,H-N, 1-36 | Grant | Sensitive contractual and competitive business information |
| 45-1/2 | Payment coupon | 1 | 1; Col A, 4,16,23 | Grant | Sensitive contractual and competitive business information |
| 45-1/2-1 | Invoice | 1 | Cols C-F, 15-50 | Grant | Sensitive contractual and competitive business information |

| Staff Work Paper Number | Description | Page(s) | Line(s) | Recommend 18 Month Extension | Type of Information Classified Confidential |
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| Documents 06511-04 and 06981-04 | | | | | |
| 45-1/2-1 | Invoice | 2-3 | Cols C-F, 7-47 | Grant | Sensitive contractual and competitive business information |
| 46-1/1-1 | ITS received schedule report | 1 | All | Grant | Sensitive contractual and competitive business information |
| 47-1/1-1/1 | Power deal lambda report | 1 | Cols C,H-I,K-N, 2-47 | Grant | Sensitive contractual and competitive business information |
| 47-1/1-1/1 | Power deal lambda report | 2 | Cols C,H-N, 2-46 | Grant | Sensitive contractual and competitive business information |
| 47-1/1-1/1 | Power deal lambda report | 3 | Cols C,H-I,K-N, 6-48 | Grant | Sensitive contractual and competitive business information |
| 47-1/1-1/1 | Power deal lambda report | 4 | Cols C,H-I,K-N, 7-48; Col J, 8 | Grant | Sensitive contractual and competitive business information |
| 47-1/1-1/1 | Power deal lambda report | 5-7 | Cols C,H-I,K-N, 2-47 | Grant | Sensitive contractual and competitive business information |
| 47-1/1-1/1 | Power deal lambda report | 8 | Cols C,H-I,K-N, 2-48 | Grant | Sensitive contractual and competitive business information |
| 47-1/1-1/1 | Power deal lambda report | 9 | Cols C,H-I,K-N, 2-41; Col J, 12 | Grant | Sensitive contractual and competitive business information |
| 47-1/1-2/1 | Purchase statement | 1 | Cols C-F, 15-50 | Grant | Sensitive contractual and competitive business information |
| 47-1/1-2/1 | Purchase statement | 2 | Cols C-F, 7-48 | Grant | Sensitive contractual and competitive business information |
| 47-1/1-2/1 | Purchase statement | 3 | Cols C-F, 6-49 | Grant | Sensitive contractual and competitive business information |
| 47-1/1-2/1 | Purchase statement | 4 | Cols C-F, 7-27 | Grant | Sensitive contractual and competitive business information |
| 47-1/1-2/2 | Invoice | 1 | Cols C-F, 15-20 | Grant | Sensitive contractual and competitive business information |
| 49-1/1 | Monthly report of cost and quality of fuel oil for electric plants | 1 | Cols H-N,P-Q, 1-22 | Grant | Sensitive contractual and competitive business information |
| 49-1/1-1/2 | Monthly report of cost and quality of fuel oil for electric plants | 1 | Cols H-N,P-Q, 1-13 | Grant | Sensitive contractual and competitive business information |

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| Documents 06511-04 and 06981-04 | | | | | |
| 52 | Summary of hedging transactions | 1 | 31 | Grant | Sensitive contractual and competitive business information |
| 52 | Summary of hedging transactions | 2 | Col B, 8-10 | Grant | Sensitive contractual and competitive business information |
| 52-2 | Hedging filing | 1 | Cols C-D, 1a-10a, 11-12; Cols E-F, 1a-10a | Grant | Sensitive contractual and competitive business information |
| 52-2 | Hedging filing | 2 | Cols C-D, 1a-10a, 12; Cols E-F, 1a-10a | Grant | Sensitive contractual and competitive business information |
| 52-2 | Hedging filing | 3 | Cols C-D, 1a-10a, 11; Cols E-F, 1a-10a | Grant | Sensitive contractual and competitive business information |
| 52-1/1 | Hedging filing | 1 | Col B, 12-24; Cols C-F, 2-10a | Grant | Sensitive contractual and competitive business information |
| 52-1/1 | Hedging filing | 2-12 | Cols C-F, 2-11 | Grant | Sensitive contractual and competitive business information |
| 52-2/1-1 | Hedging filing | 1 | Cols, C-F, 2-11 | Grant | Sensitive contractual and competitive business information |
| 52-2/1-1/1 | Calculation of gain summary | 1 | Col C, 11-28; Col D, 5-10,28; Col E, 28; 34 | Grant | Sensitive contractual and competitive business information |
| 52-2/1-1/1-1 | EMT allocation of oil financial instruments | 1 | Col F, 21-26,59; Col G, 21-26,57; Col H, 9-18,21-26, 28-36,40-47,49-56, 58 | Grant | Sensitive contractual and competitive business information |
| 52-2/1-1/1-1/1 | EMT allocation of oil financial instruments | | Col F, 20-26; Col G, 20-26,54; Col H, 10-18, 20-26,28-36, 40-42,44,46-47, 49-53 | Grant | Sensitive contractual and competitive business information |
| 52-2/2 | Hedging filing | 1 | Col B, 14-26; Cols C-F, 2-11 | Grant | Sensitive contractual and competitive business information |

| Staff Work Paper Number | Description | Page(s) | Line(s) | Recommend 18 Month Extension | Type of Information Classified Confidential |
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| Documents 06511-04 and 06981-04 | | | | | |
| 52-2/2 | Hedging filing | 2-12 | Cols C-F, 2-11 | Grant | Sensitive contractual and competitive business information |
| 52-2/2-1 | Hedging filing | 1 | Cols C-F, 2-11 | Grant | Sensitive contractual and competitive business information |
| 52-2/2-1/1 | Swap deal entry | 1 | 1,3; Col A, 11; Col B, 11,22; C-E, 7-18 | Grant | Sensitive contractual and competitive business information |
| 52-2/2-1/2 | Calculation of gain/loss summary | 1 | Col D, 1c,1-25; Col C, 1-25 | Grant | Sensitive contractual and competitive business information |
| 52-2/3 | Hedging filing | 1 | Col B, 14-26; Cols C-F, 2-11; | Grant | Sensitive contractual and competitive business information |
| 52-2/3 | Hedging filing | 2-12 | Cols C-F, 2-12 | Grant | Sensitive contractual and competitive business information |
| 52-2/3-1 | Hedging filing | 1 | Cols C-F, 2-11 | Grant | Sensitive contractual and competitive business information |
| 52-2/3-1 | Hedging filing | 2 | Col B, 10,26; Col D, 10,26; Col E, 10,12,14, 16,18,20,26,28; Col H, 26; Col L, 10,12,14, 16,18,20,26,28; Col M, 10,12,14, 16,18,20,26,28; Col N, 4 | Grant | Sensitive contractual and competitive business information |
| 52-2/3-1 | Hedging filing | 3 | 3-5,8-9,11-17, 22-23 | Grant | Sensitive contractual and competitive business information |
| 52-2/3-1 | Hedging filing | 4-5 | All | Grant | Sensitive contractual and competitive business information |

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| Documents 06511-04 and 06981-04 | | | | | |
| 52-2/3-1 | Hedging filing | 6 | 1,5,18,26; Col A, 29; Col B, 35; Col C-D, 28 | Grant | Sensitive contractual and competitive business information |
| 52-2/3-1 | Hedging filing | 7 | Col A, 14; Col B, 15-17; Col C, 15-19; Col D, 15-17; Col E, 15-19 | Grant | Sensitive contractual and competitive business information |
| 52-2/3-1 | Hedging filing | 8 | 4-5,7,10-11,13-20, 25-26 | Grant | Sensitive contractual and competitive business information |
| 52-2/3-1 | Hedging filing | 9 | Col B, 12-38 | Grant | Sensitive contractual and competitive business information |
| 52-2/3-1 | Hedging filing | 10 | Col B, 6-30 | Grant | Sensitive contractual and competitive business information |
| 52-2/3-1 | Hedging filing | 11-19 | All | Grant | Sensitive contractual and competitive business information |
| 52-2/3-1 | Hedging filing | 20 | Col A, 16,18,20; Col B, 16,18,20; Col C, 16,18,20, 25-27,43 | Grant | Sensitive contractual and competitive business information |
| 52-2/3-1 | Hedging filing | 21 | Col A, 15-20; Col B, 15-18, 21-22; Col C, 15-18; Col D, 15-22 | Grant | Sensitive contractual and competitive business information |
| 52-2/3-1 | Hedging filing | 22 | Col B, 13-39 | Grant | Sensitive contractual and competitive business information |
| 52-2/3-1 | Hedging filing | 23 | Col B, 6-30 | Grant | Sensitive contractual and competitive business information |
| 52-3/1 | Example of fuel transaction process | 1 | 1,3,7-18,22 | Grant | Sensitive contractual and competitive business information |

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| Documents 06511-04 and 06981-04 | | | | | |
| 52-3/1 | Example of fuel transaction process | 2 | Col B, 11,21,31; Col D, 11,21,31; Col E, 11,13,15, 17,21,23,25,27,31; Col G, 11,21,31; Col K, 11,21,31; Col M, 11,13,15, 17,21,23,25,27,31 | Grant | Sensitive contractual and competitive business information |
| 52-3/1 | Example of fuel transaction process | 3 | Col B, 19; Col D, 19; Col E, 5,7,9,11,13, 19,21,23,25,27,29; Cols G-H, 19; Col K, 19; Col L, 19,21,23,25, 27,29; Col M, 5,7,9,11,13, 17,19,21,23,25,27, 29 | Grant | Sensitive contractual and competitive business information |
| 52-3/1 | Example of fuel transaction process | 4 | Col B, 5; Col D, 5; Col E, 5,7,9,11,13, 15,17,19,21-24; Col G, 5; Col K, 5; Col L, 17,19,21-24; Col M, 5,7,9,11,13, 15,17,19,21-24 | Grant | Sensitive contractual and competitive business information |

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| Documents 06511-04 and 06981-04 | | | | | |
| 52-3/1 | Example of fuel transaction process | 5 | 1; Col A, 4; Col B, 8,18; Col C, 26,29; Col D, 26,29,32; Col E, 25-26,28 | Grant | Sensitive contractual and competitive business information |
| 52-3/1 | Example of fuel transaction process | 6 | 4; Col C, 15-29; Col D, 15-29, 31-32; Col E, 15-29, 38-39; Col F, 15-29,31-32 | Grant | Sensitive contractual and competitive business information |
| 52-3/1 | Example of fuel transaction process | 7 | Cols B-F, 14-21; Col G, 14-22 | Grant | Sensitive contractual and competitive business information |
| 52-3/1 | Example of fuel transaction process | 8 | 1; Col A, 4; Col B, 8,18,24; Cols C-D, 26,29 | Grant | Sensitive contractual and competitive business information |
| 52-3/1 | Example of fuel transaction process | 9 | 4; Col C, 15-18; Col D, 15-20; Col E, 15-18; Col F, 15-20 | Grant | Sensitive contractual and competitive business information |
| 52-3/1 | Example of fuel transaction process | 10 | Cols B-F, 14-15; Col G, 14-16 | Grant | Sensitive contractual and competitive business information |
| 52-3/1 | Example of fuel transaction process | 11 | Col C, 2-35; Col D, 1; Cols E,I, 2-35 | Grant | Sensitive contractual and competitive business information |
| 52-3/1 | Example of fuel transaction process | 12 | Col D, 3-4,8-9, 11-14,16-17; Col F, 12 | Grant | Sensitive contractual and competitive business information |

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| Documents 06511-04 and 06981-04 | | | | | |
| 52-3/1 | Example of fuel transaction process | 13 | Col A, 10-40, 46-53,64-66; Col B, 10-40,42, 46-53,55, 64-66; Col C, 10-40,42, 46-53,55,64-66; Col D, 10-40,42, 46-53,55,64-67, 71,72 Col E, 46-53,60, 64-66,68,71; Col F, 13,16,19,22, 27 | Grant | Sensitive contractual and competitive business information |
| 52-3/1 | Example of fuel transaction process | 14 | Cols A, 5-15, 17-28; Col C, 5-15,17-29 Col D, 5-15,17-28 Col E, 5-15,17-29 | Grant | Sensitive contractual and competitive business information |
| 52-3/1 | Example of fuel transaction process | 15 | Cols C-D, 7-12, 14-18 | Grant | Sensitive contractual and competitive business information |
| 52-3/1 | Example of fuel transaction process | 16 | Col A, 15-17, 46-66; Col B, 4-9,15-17, 46-66; Col C, 10,12,18, 20-28,31-42,46-66 | Grant | Sensitive contractual and competitive business information |
| 52-3/1 | Example of fuel transaction process | 17 | Col B, 24,26-31; Col D, 6-20 | Grant | Sensitive contractual and competitive business information |
| 52-3/1 | Example of fuel transaction process | 18 | 59,61-63 | Grant | Sensitive contractual and competitive business information |
| 52-3/1 | Example of fuel transaction process | 19 | Col J, 6-22,25-26; Col K, 13 | Grant | Sensitive contractual and competitive business information |
| 52-3/1 | Example of fuel transaction process | 20 | Col F, 10-24, 26-28; | Grant | Sensitive contractual and competitive business information |

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| Documents 06511-04 and 06981-04 | | | | | |
| 52-3/1 | Example of fuel transaction process | 22 | Col M, 14-35 | Grant | Sensitive contractual and competitive business information |
| 52-3/1 | Example of fuel transaction process | 23 | Col M, 14-27 | Grant | Sensitive contractual and competitive business information |
| 52-3/1 | Example of fuel transaction process | 24 | Col L, 14-23; Col M, 14-27 | Grant | Sensitive contractual and competitive business information |
| 52-3/1 | Example of fuel transaction process | 25 | Col L, 14-24; Col M, 14-28 | Grant | Sensitive contractual and competitive business information |
| 52-3/1 | Example of fuel transaction process | 26 | Col M 14-47 | Grant | Sensitive contractual and competitive business information |
| 52-3/1 | Example of fuel transaction process | 27 | Col L, 5-13,16; Col M, 5-17 | Grant | Sensitive contractual and competitive business information |
| 52-3/1 | Example of fuel transaction process | 28 | Col L, 14-47 Col M, 14-48 | Grant | Sensitive contractual and competitive business information |
| 52-3/1 | Example of fuel transaction process | 29-33 | Cols L,M, 5-53 | Grant | Sensitive contractual and competitive business information |
| 52-3/1 | Example of fuel transaction process | 34 | Col L, 5-31 Col M, 5-36 | Grant | Sensitive contractual and competitive business information |
| 52-3/1 | Example of fuel transaction process | 35 | Col L, 14-17,22,24; Col N, 14-21 | Grant | Sensitive contractual and competitive business information |
| 52-3/1 | Example of fuel transaction process | 36 | Col C, 4-6,10; Col D, 4-6,8-10 | Grant | Sensitive contractual and competitive business information |
| 52-3/1 | Example of fuel transaction process | 39 | Col M, 24 Col O, 24-25,35-36 | Grant | Sensitive contractual and competitive business information |
| 52-3/1 | Example of fuel transaction process | 40 | Col O, 5 | Grant | Sensitive contractual and competitive business information |
| 52-4 | Energy marketing and trading | 1-61 | All | Grant | Sensitive Contractual Information |

A temporary copy of this recommendation will be held at I:06981-04.fpl ext 1 raf.doc for a short period.

CC: Division of Regulatory Compliance and Consumer Assistance (Welch)
Division of Commission Clerk and Administrative Services (Flynn)