



# ORIGINAL Public Service Commission

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COMMISSION  
CLERK

**DATE:** November 16, 2006

**TO:** Richard Bellak, Attorney, Office of General Counsel

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

**RE:** Docket 060224-EI, Recommendation concerning Florida Power & Light Company's (FPL) request for confidential classification concerning a portion of the staff audit report and working papers prepared during "Florida Power & Light Service Connect Process Audit for the Year Ended December 31, 2004", Audit Control No. 05-285-4-1, Documents Numbered 01604-06, 01605-06, 02151-06 and 04185-06

On February 20, 2006, when copies of sensitive portions of staff's audit report and working papers obtained or prepared during the "Florida Power & Light Service Connect Process Audit for the Year Ended December 31, 2004", 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 February 24, 2006, staff filed documents 01604-06 and 01605-06 consisting of those specified portions of staff's audit report and working papers.

On March 13, 2006, FPL filed a request pursuant to Rule 25-22.006, FAC, and Section 366.093, Florida Statutes (F.S.), that selected portions of the working papers prepared by the staff during the audit receive confidential classification. In support of their request, the utility filed document 02151-06 consisting of a copy of the materials in question with the confidential portions highlighted.

After discussions with the staff, the utility reduced its request on May 12, 2006 and again on November 2, 2006. In support of these amendments, the FPL filed a public copy with the sensitive information redacted (document no. 04186-06) and a copy with the sensitive information highlighted (document no. 04185-06).

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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 366.093(3)(e), F.S., provides the following exemptions.

Section 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:

(a) Trade Secrets.

.....

(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 FPL's request as originally filed on March 13, amended May 12, and amended again on November 2, 2006, reveals the sensitive material consists of:

#### **1) Materials Which Disclose Sensitive Competitive Business Information**

Witness C. Dennis Brandt, FPL Director, Products and Services, identifies the following working papers as containing sensitive competitive business information: "Audit Finding No. 5", "Annotated Copy -- Audit Finding No. 5", "Meeting on Clarification of Cost Allocation Worksheets Provided", "Notes on Observation of FPLES Representative", "Script Used by FPLES to Offer Services", "Summary of Cost Allocation and Audit Findings", "Cost Allocation", "Bill Insert", "Bill Insert Information", "Bill Stuffers Information", "FPL Revenues", "Total Revenues Received by FPLES Related to Service Connection Calls", "Gas Service Revenues", "Cash Receipts Received on Behalf of FPLES", "Transfer Cash Collected at FPL for VAPS to Inter-Company Payable Account to FPLES", "Journal Entry to True-up Bad Debt Provision for the Inventory Portion of Natural Gas", and "General Ledger Monthly Transaction 12/2004."

Section 366.093(3)(e), F.S., provides that the Commission may grant a confidential classification to sensitive information relating to competitive business interests if its disclosure would impair the competitive business of the provider of the information. In this filing, FPL seeks to protect business information concerning the utility and its affiliate Florida Power & Light Energy Services (FPLES.) Staff sought additional information from FPL regarding why this information should be granted a confidential classification. After FPL reduced the amount of information identified as sensitive in its request, staff agrees that release of the remaining information would impair the competitive business operations of FPL and its affiliate FPLES.

#### **2) Materials Which Disclose Trade Secrets and Sensitive Competitive Business Information**

Witness Brandt also identifies the following working papers as containing trade secrets and sensitive competitive business information: "Audit Finding No. 1", "Audit Finding No. 4", "Annotated Copy -- Audit Finding No. 1", "Annotated Copy -- Audit Finding No. 4", "Meeting on Clarification of the Cost Allocation Worksheets Provided", "Print Screen of Vapors", "Summary of FPL Representative Training", "Audit Finding #1", "FPLES Connect Service Providers", "Explanation of FPLES Connect Services", "Types of Calls Transferred", "Customer Information Transferred", "Summary of Cost Allocation and Audit Findings", "Cost Allocation", "Bill Insert Costs", "Cash Receipts Received on Behalf of FPLES", and "Transfer Cash Collected at FPL for VAPS to Inter-Company Payable Account to FPLES".

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Section 366.093(3)(a), F.S., provides that the Commission may grant a confidential classification to a trade secret. FPL requests that several items be considered both trade secrets and sensitive competitive business information. In its May 12, 2006 pleading, FPL identified Section 688.002(4), F.S., as defining a trade secret, but the utility did not explain, in detail, why certain information in this filing should be considered a trade secret. Our recommendation is that the material qualifies for a confidential classification on the basis that it is sensitive confidential business information, thus the utility's request should be granted. Since we recommend that the request be granted on the basis that the material is sensitive competitive business information, it is unnecessary to further assess and pursue the issue of whether the information also reports trade secrets.

### 3. Customer-Specific Account Information

FPL has a corporate policy not to disclose customer-specific information. This policy includes but is not limited to: customer names, addresses, telephone numbers, account numbers, rates, billing determinates (kW and kWh usage), conservation savings in kW, kWh and bills. FPL treats such information as confidential and does not disclose it, except as required by law to entities or persons other than the customer without the permission of the customer.

Section 366.093(3)(e), F.S., provides that the Commission may grant a confidential classification to sensitive information relating to competitive business interests if its disclosure would impair the competitive business of the provider of the information. The Commission has consistently granted customer-specific account information a confidential classification (See Commission Order 22851, issued April 23, 1990, Docket 890973-EI); therefore, we recommend the customer-specific information found here be granted a confidential classification.

#### **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 sensitive information meets the statutory restrictions necessary for the material to be provided a confidential classification. Also, FPL witness Brandt asserts FPL has maintained the confidentiality of these materials.

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

FPL requests that this material be held as confidential for at least 18 months and that this material should be returned to FPL once the information is no longer needed for the Commission to conduct its business. According to the provisions of subsection 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.

**Close the Docket**

The proposed order resolving this matter should provide that once the order becomes final the docket should be closed.

**Staff Recommendation**

We have read the testimony of FPL's witness, associated pleadings, amendments and exhibits. Based upon reading the filings, and for the reasons presented above, we recommend the utility's request be granted, as amended, and that the identified material be granted a confidential classification for 18 months. A detailed recommendation, as found, follows:

**Detailed Recommendation, as Found**

Staff Work Paper Number	Description	Page(s)	Line(s)	Recommend	Type of Information Classified Confidential
Documents 01605-06, 02151-06 and 04185-06					
Audit Report	Audit Finding No. 1	4	25	Grant	Sensitive Competitive Business information
Audit Report	Audit Finding No. 4	8	26	Grant	Sensitive Competitive Business information
Audit Report	Audit Finding No. 5	11	2-3	Grant	Sensitive Competitive Business information
Documents 01604-06, 02151-06 and 04185-06					
Annotated Audit Report	Audit Finding No. 1	4	25	Grant	Sensitive Competitive Business information
Annotated Audit Report	Audit Finding No. 4	8	26	Grant	Sensitive Competitive Business information
Annotated Audit Report	Audit Finding No. 5	11	2-3	Grant	Sensitive Competitive Business information
5B	Meeting on Clarification of the Cost Allocation Worksheets Provided	1	1,14	Grant	Sensitive Competitive Business information
5B	Meeting on Clarification of the Cost Allocation Worksheets Provided	2	9	Grant	Sensitive Competitive Business information
25	Notes on Observation of FPLES Representative	2	23,25-29	Grant	Sensitive Competitive Business information
25	Notes on Observation of FPLES Representative	3	5,7-11,14	Grant	Sensitive Competitive Business information
25	Notes on Observation of FPLES Representative	4	3-5,7,9-10, 16,18	Grant	Sensitive Competitive Business information
25	Notes on Observation of FPLES Representative	5	4,10,12-14, 19-21,24,28	Grant	Sensitive Competitive Business information
25	Notes on Observation of FPLES Representative	6	2-3	Grant	Sensitive Competitive Business information

Staff Work Paper Number	Description	Page(s)	Line(s)	Recommend	Type of Information Classified Confidential
Documents 01604-06, 02151-06 and 04185-06					
25A	Print Screen of Vapors	1	1-20, except Connect Service Business Partners Named on Lines 12-18	Grant	Sensitive Competitive Business information
28	Summary of FPL Representative Training	2	12,19-22	Grant	Sensitive Competitive Business information
29	Script Used by FPLES to offer Services	1	10-11	Grant	Sensitive Competitive Business information
29-1	Audit Finding #1	1	14-15,26-28	Grant	Sensitive Competitive Business information
42-2	FPLES Connect Service Providers	1	18	Grant	Sensitive Competitive Business information
42-3	Explanation of FPLES Connect Services	1	20-21	Grant	Sensitive Competitive Business information
42-7	Types of Calls Transferred	1	13	Grant	Sensitive Competitive Business information
42-8	Customer Information Transferred	1	13-17	Grant	Sensitive Competitive Business information
43	Summary of Cost Allocation and Audit Findings	1	8-22,24-25, 27-28,35	Grant	Sensitive Competitive Business information
43	Summary of Cost Allocation and Audit Findings	2	6-7,12,23-25	Grant	Sensitive Competitive Business information
43	Summary of Cost Allocation and Audit Findings	4	1-2,5-6,9-11,13-15, 17,21-23,25-26, 30-31	Grant	Sensitive Competitive Business information
43	Summary of Cost Allocation and Audit Findings	5	2-3	Grant	Sensitive Competitive Business information
43	Summary of Cost Allocation and Audit Findings	6	6	Grant	Sensitive Competitive Business information
43-1	Cost Allocation	1	18-19,21,24,27, 32-33,36	Grant	Sensitive Competitive Business information
43-1	Cost Allocation	2	33-35, Col. H	Grant	Sensitive Competitive Business information
43-1	Cost Allocation	4	2-10,12-19,22-31,34-35	Grant	Sensitive Competitive Business information
43-1	Cost Allocation	5	5,18,31,44,57	Grant	Sensitive Competitive Business information
43-1	Cost Allocation	6	12,25	Grant	Sensitive Competitive Business information
43-1	Cost Allocation	9	33-35	Grant	Sensitive Competitive Business information
43-1	Cost Allocation	11	32-34	Grant	Sensitive Competitive Business information
44, p. 2	Bill Insert	1	20	Grant	Sensitive Competitive Business information
44-17	Bill Insert Cost	1	1-33,35-37	Grant	Sensitive Competitive Business information
44-19	Bill Insert Information	1	18,20	Grant	Sensitive Competitive Business information

Staff Work Paper Number	Description	Page(s)	Line(s)	Recommend	Type of Information Classified Confidential
Documents 01604-06, 02151-06 and 04185-06					
44-19	Bill Insert Information	2	8-9	Grant	Sensitive Competitive Business information
44-21	Bill Stuffers Information	1	18-23	Grant	Sensitive Competitive Business information
44-24	FPL Revenues	1	7,11,16-21	Grant	Sensitive Competitive Business information
44-24	FPL Revenues	2	13-15 Col. N; 17-23 Cols. S&T	Grant	Sensitive Competitive Business information
44-24	FPL Revenues	4	17;  27, Col. N	Grant	Sensitive Competitive Business information
44-24	FPL Revenues	5	17, Col. N	Grant	Sensitive Competitive Business information
44-24	FPL Revenues	6	14-16, Col. N	Grant	Sensitive Competitive Business information
46	Total Revenues Received by FPLES Related to Service Connect Calls	1	19,21	Grant	Sensitive Competitive Business information
46-1	Gas Service Revenues	1	15-22, Col. C	Grant	Sensitive Competitive Business information
46-1	Gas Service Revenues	2-3	All	Grant	Sensitive Competitive Business information
46-1	Gas Service Revenues	5	15-21, Col. C	Grant	Sensitive Competitive Business information
46-1	Gas Service Revenues	6-7	All	Grant	Sensitive Competitive Business information
46-2	Cash Receipts Received on Behalf of FPLES	1	15-19, Col. C;  20-22	Grant	Sensitive Competitive Business information
46-2	Cash Receipts Received on Behalf of FPLES	4	5,11,17,22,28, Col. B;  5-33, Cols. D-F	Grant	Sensitive Competitive Business information
46-2	Cash Receipts Received on Behalf of FPLES	5	5,11,16,24,29, Col. B;  5-34, Cols. D-F	Grant	Sensitive Competitive Business information
46-2	Cash Receipts Received on Behalf of FPLES	6	5,10,16, Col B;  5-22, Cols. D-F	Grant	Sensitive Competitive Business information
46-2	Cash Receipts Received on Behalf of FPLES	7	5,10,16,21,26,34, Col. B;  5-34 Cols. D-F	Grant	Sensitive Competitive Business information
46-2	Cash Receipts Received on Behalf of FPLES	8	9-14,19,25,31, Col. B;  5-32, Cols. D-F	Grant	Sensitive Competitive Business information
46-2	Cash Receipts Received on Behalf of FPLES	9	8,13,18,23,28,33, Col B.;;  5-33, Cols D-F	Grant	Sensitive Competitive Business information

Staff Work Paper Number	Description	Page(s)	Line(s)	Recommend	Type of Information Classified Confidential
Documents 01604-06, 02151-06 and 04185-06					
46-2	Cash Receipts Received on Behalf of FPLES	10	9,17,22,28,34, Col. B; 5-34, Cols. D-F	Grant	Sensitive Competitive Business information
46-2	Cash Receipts Received on Behalf of FPLES	11	10,15,20,25,30, Col. B; 5-33, Cols. D-F	Grant	Sensitive Competitive Business information
46-2	Cash Receipts Received on Behalf of FPLES	12	7,14,20,25,34, Col. B; 5-34, Cols. D-F	Grant	Sensitive Competitive Business information
46-2	Cash Receipts Received on Behalf of FPLES	13	9,14,19,27,33, Col. B; 5-33, Cols. D-F	Grant	Sensitive Competitive Business information
46-2	Cash Receipts Received on Behalf of FPLES	14	9,17,22,30, Col. B; 5-35, Cols. D-F	Grant	Sensitive Competitive Business information
46-2	Cash Receipts Received on Behalf of FPLES	15	5,11,17,22,27, Col B. 5-34, Cols. D-G	Grant	Sensitive Competitive Business information
46-2	Cash Receipts Received on Behalf of FPLES	16	6,11,17,23,29, Col. B; 5-32, Cols. D-F	Grant	Sensitive Competitive Business information
46-2	Cash Receipts Received on Behalf of FPLES	17	6,11,18,23,28,33, Col. B; 5-33, Cols. D-F	Grant	Sensitive Competitive Business information
46-2	Cash Receipts Received on Behalf of FPLES	18	9,14,19,24,29, Col. B; 5-34, Cols. D-F	Grant	Sensitive Competitive Business information
46-2	Cash Receipts Received on Behalf of FPLES	19	31,36, Col. B; 5-43, Cols. D-F	Grant	Sensitive Competitive Business information
46-3	Transfer Cash Collected at FPL for VAPS to Inter-Company Payable Account to FPLES	1	16-25, Col. C	Grant	Sensitive Competitive Business information
46-3	Transfer Cash Collected at FPL for VAPS to Inter-Company Payable Account to FPLES	2	5-7,12, Cols. D-E; Col. B;	Grant	Sensitive Competitive Business information
46-3	Transfer Cash Collected at FPL for VAPS to Inter-Company Payable Account to FPLES	3	5-8, Cols.C-D	Grant	Sensitive Competitive Business information
46-3	Transfer Cash Collected at FPL for VAPS to Inter-Company Payable Account to FPLES	4	4-7 Cols B-E;	Grant	Sensitive Competitive Business information



Staff Work Paper Number	Description	Page(s)	Line(s)	Recommend	Type of Information Classified Confidential
Documents 01604-06, 02151-06 and 04185-06					
46-3	Transfer Cash Collected at FPL for VAPS to Inter-Company Payable Account to FPLES	5	4-7, Cols. B-F; 9-12, Col. F; 14, Col. D	Grant	Sensitive Competitive Business information
46-3	Transfer Cash Collected at FPL for VAPS to Inter-Company Payable Account to FPLES	6	4-9, Cols B-H; 11-16, Col. H	Grant	Sensitive Competitive Business information
46-3	Transfer Cash Collected at FPL for VAPS to Inter-Company Payable Account to FPLES	7	15-18, Col. C	Grant	Sensitive Competitive Business information
46-3	Transfer Cash Collected at FPL for VAPS to Inter-Company Payable Account to FPLES	8	6-8, Col. B 19-21; 23, Col. A; 25-26, Col. C	Grant	Sensitive Competitive Business information
46-3	Transfer Cash Collected at FPL for VAPS to Inter-Company Payable Account to FPLES	9	9-12.5, Cols. A-E,G,H	Grant	Sensitive Competitive Business information
46-4	Journal Entry to True-Up Bad Debt Provision for the Inventory Portion of Natural Gas	1	Lines 15-17, Col. C	Grant	Sensitive Competitive Business information
46-4	Journal Entry to True-Up Bad Debt Provision for the Inventory Portion of Natural Gas	2-4	All	Grant	Sensitive Competitive Business information
46-4	Journal Entry to True-Up Bad Debt Provision for the Inventory Portion of Natural Gas	5	Line 29, Col. B	Grant	Sensitive Competitive Business information
46-4	Journal Entry to True-Up Bad Debt Provision for the Inventory Portion of Natural Gas	6	11-12; 16-18, Col. B	Grant	Sensitive Competitive Business information
46-4	Journal Entry to True-Up Bad Debt Provision for the Inventory Portion of Natural Gas	8	6, col. B; 8, Col. D; 10, Col. F; 19-22,24,31-32; 33, Col. I	Grant	Sensitive Competitive Business information

Staff Work Paper Number	Description	Page(s)	Line(s)	Recommend	Type of Information Classified Confidential
Documents 01604-06, 02151-06 and 04185-06					
46-4	Journal Entry to True-Up Bad Debt Provision for the Inventory Portion of Natural Gas	9	8-9, Col. G; 18, Cols. L,N; 19-20	Grant	Sensitive Competitive Business information
47-1	General Ledger Monthly Transaction 12/04	5	14-18, Col B	Grant	Sensitive Competitive Business information
47-2	General Ledger Monthly Transaction 12/04	1	7-9, Cols. D-E	Grant	Sensitive Competitive Business information
47-2	General Ledger Monthly Transaction 12/04	2	14-19, Col. B	Grant	Sensitive Competitive Business information
47-2	General Ledger Monthly Transaction 12/04	3	7-11, Cols. D-E	Grant	Sensitive Competitive Business information
47-2	General Ledger Monthly Transaction 12/04	5	14-21, col. B	Grant	Sensitive Competitive Business information

A temporary copy of this recommendation will be held at I:02151-06fplraf.doc for a short period.

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