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COMMISSION
CLERK

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

DATE: September 18, 2007

TO: Martha Brown, Attorney, General Counsel

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

RE: Docket 070002-EG, 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 Energy Conservation Cost Recovery Clause Audit for the Year Ended December 31, 2004", Audit Control No. 05-042-4-1, Documents Numbered 06625-05 and 06604-05

On June 22, 2005, when copies of certain portions of staff's audit working papers obtained or prepared during the "FPL Energy Conservation Cost Recovery Clause 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 July 13, 2005, staff filed document 06625-05 consisting of those specified portions of the staff working papers.

On July 13, 2005, 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. The utility's request included a redacted copy for public inspection (Exhibit B, document 06603-05) and a highlighted copy (document 06604-05).

On March 9, 2006, the Commission issued Order No. PSC-06-0189-CFO-EG in Docket No. 060002-EG granting FPL's request for a confidential classification for an 18 month period. That classification period has now tolled.

- CMP _____
- COM _____ On September 7, 2007, FPL filed a request pursuant to Rule 25-22.006, FAC, and Section
- CTR _____ 366.093, Florida Statutes (F.S.), that the confidential classification period granted by
- ECR _____ Commission Order No. PSC-06-0189-CFO-EG be extended for an additional 18 months.
- GCL _____ Documents 06625-05 and 06604-05 are currently held by the Commission's Division of the
- OPC _____ Commission Clerk and Administrative Services as confidential pending resolution of FPL's
- RCA _____ request for extension of the confidential classification.
- SCR _____
- SGA _____
- SEC _____
- OTH Maguente

DOCUMENT NUMBER-DATE

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FPSC-COMMISSION CLERK

September 18, 2007
Florida Power & Light Request

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

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:

....

(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 customer-specific account information.

FPL asserts that customer-specific information should be granted a confidential classification on the basis that release of this customer-specific information would harm competitive business interests. Subsection 366.093(3)(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.

FPL witness Ken Getchell, FPL Budget and Regulatory Support Supervisor, identifies materials associated with sensitive customer-specific account information within staff working papers entitled: “Bill Test”, “Proposal”, “Cell Phone Bill”, “Case Studies”, “CILC (Commercial/Industrial Load Control) Incentives”, “Sample Bill”, and “CDR (Commercial/Industrial Demand Reduction) Incentives.”

Witness Getchell reports that FPL treats customer-specific information as confidential to include: “customer names, addresses, telephone numbers, account numbers, rates, billing determinants (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 and persons other than the customer absent the customer’s consent.” FPL states its policy “is premised upon customer’s right to privacy and the potential that the disclosure of customer-specific account information may harm some customer’s competitive interests.”

To further support its request, FPL points out the Commission has previously granted confidential status to customer-specific account information through Commission Orders Nos. PSC-06-0188-CFO-EG and PSC-06-0189-CFO-EG both issued March 9, 2006 in Docket 060002-EG.

After reading the information identified by witness Getchell, we recommend that this customer-specific account information be held as confidential because the information meets the definition of “proprietary confidential business information” set out in Section 366.093(3)(e), Florida Statutes, in that release of this privately-held information pertaining to competitive interests would cause the provider of that information harm.

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 has not been released to the public. FPL witness Getchell also asserts FPL has maintained the confidentiality of those materials 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 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 06625-05 and 06604-05					
41-1/1-1	Bill Test	1	1	Grant	Sensitive Competitive Business Information
43-5/1	Proposal	1	17	Grant	Sensitive Competitive Business Information
43-5/1	Proposal	2	9	Grant	Sensitive Competitive Business Information
43-5/2	Cell Phone Bill	5	1,12,31	Grant	Sensitive Competitive Business Information
43-5/2	Cell Phone Bill	7	3,6,34,36,42	Grant	Sensitive Competitive Business Information
43-5/2	Cell Phone Bill	8	2,5	Grant	Sensitive Competitive Business Information
43-5/2	Cell Phone Bill	9	Cols A-B, 2,5	Grant	Sensitive Competitive Business Information
43-5/2	Cell Phone Bill	10	Col A, 2,5; Col B, 3,5	Grant	Sensitive Competitive Business Information
43-5/2	Cell Phone Bill	11-23	Cols A-B, 2,5	Grant	Sensitive Competitive Business Information
43-5/2	Cell Phone Bill	24	2-5	Grant	Sensitive Competitive Business Information
43-5/3	Case Studies	2	8,14,18,20,22, 28-31	Grant	Sensitive Competitive Business Information
43-5/3	Case Studies	3	1-5,9-10,12-15	Grant	Sensitive Competitive Business Information
43-5/3	Case Studies	4	1-2,6,13-14,21-22, 28-29	Grant	Sensitive Competitive Business Information
43-5/3	Case Studies	5	1,9-11	Grant	Sensitive Competitive Business Information
44-1/1	CILC Incentives	1	Cols A-C,J-N, 4,6-10,12-13, 16-19,24-27,29, 32,35,37-38,44, 48-52,57,61,63	Grant	Sensitive Competitive Business Information
44-1/1	CILC Incentives	2	Cols A-C,J-N, 64-69,73-78,80-81, 83-86,88,90-91, 93-94,98-100, 103-104,106-108, 114-115,118,121, 123,127-128, 130-131	Grant	Sensitive Competitive Business Information

Staff Work Paper Number	Description	Page(s)	Line(s)	Recommend	Type of Information Classified Confidential
Documents 06625-05 and 06604-05					
44-1/1	CILC Incentives	3	Cols A-C,J-N, 132-133,136-138, 140,142,145,147, 150,153-154, 157,161-162, 164-165,167-168, 171,173,175, 177,179-181,188, 190-191,194,196	Grant	Sensitive Competitive Business Information
44-1/1	CILC Incentives	4	Cols A-C,J-N, 198-200,203-205, 207,209,211-214, 217-218,220-221, 225,228,232-234, 240-245,253-254, 257	Grant	Sensitive Competitive Business Information
44-1/1	CILC Incentives	5	Cols A-C,J-N, 259,261-265,269, 278,282,285-287, 289,291-292,296, 298, 300,302, 305-307,310-312, 314-317,319-322, 324	Grant	Sensitive Competitive Business Information
44-1/1	CILC Incentives	6	Cols A-C,J-N, 325,329-332,334, 338-339,341,343, 346,349-350,352, 362,369,372, 374-375,378, 381-382,385,389, 391	Grant	Sensitive Competitive Business Information
44-1/1	CILC Incentives	7	Cols A-C,J-N, 395-404,408-409, 412,414,416,423, 426,429-430,435, 438,440,442-443, 445,449-451	Grant	Sensitive Competitive Business Information
44-1/1	CILC Incentives	8	Cols A-C,J-N, 452,454,461, 465-466,470,472, 475,477-478, 481-483,491	Grant	Sensitive Competitive Business Information

Staff Work Paper Number	Description	Page(s)	Line(s)	Recommend	Type of Information Classified Confidential
Documents 06625-05 and 06604-05					
44-1/1-1	Sample Bill	1	Col A, 1-2; Col B, 1-2,2a, 10-12,14-15; Col C, 7-8,10-12, 14-15,21-28,32-44; Col E, 10-12, 14-18,30-31; Col F, 7-8,10-12, 12a, ,14-29,32-44	Grant	Sensitive Competitive Business Information
44-1/2	CDR Incentives	1	Cols A-C, J-M, 1-3,6-8,10,14-16, 18,20	Grant	Sensitive Competitive Business Information

A temporary copy of this recommendation will be held at I: 06604-05.ext conservation fpl raf.doc for a short period.

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