

BEFORE THE PUBLIC SERVICE COMMISSION

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

DOCKET NO. 070001-EI
ORDER NO. PSC-07-0947-CFO-EI
ISSUED: November 28, 2007

ORDER GRANTING FLORIDA POWER & LIGHT COMPANY'S
REQUEST FOR CONFIDENTIAL CLASSIFICATION
FILED IN DOCKET NO. 060001-EI
(DOCUMENT NOS. 03638-06 AND 04040-06)

On May 8, 2006, Florida Power & Light Company (FPL) requested that certain portions of staff's working papers obtained or prepared during the "Florida Power & Light Capacity Cost Recovery Clause Audit for the Historical Year Ended December 31, 2005" be exempted from public access in accordance with Section 366.093, Florida Statutes, and Rule 25-22.006, Florida Administrative Code. The portions of the audit which are subject to the requests are staff's working papers identified as Document Nos. 03638-06 and 04040-06. This request was filed in Docket No. 060001-EI.

Section 366.093(1), Florida Statutes, provides that "any records received by the commission which are shown and found by the commission to be proprietary confidential business information shall be kept confidential and shall be exempt from [the Public Records Act]." Section 366.093(3), Florida Statutes, defines proprietary confidential business information as information that is intended to be and is treated by the company as private, in that disclosure of the information would cause harm to the company's ratepayers or business operations, and has not been voluntarily disclosed to the public. Section 366.093(3)(b)(c)(d) and (e), Florida Statutes, provide that proprietary confidential business information includes, but is not limited to "[i]nternal auditing controls and reports of internal auditors," "[s]ecurity measures, systems or procedures," "[i]nformation concerning bids or other contractual data, the disclosure of which would impair the efforts of the public utility or its affiliate to contract for goods or services on favorable terms," and "[i]nformation relating to competitive interests, the disclosure of which would impair the competitive business of the provider of the information."

FPL contends that the information falls within these categories and thus constitutes proprietary confidential business information entitled to protection under Section 366.093, Florida Statutes, and Rule 25-22.006, Florida Administrative Code. FPL states that this information is intended to be and is treated by FPL as private and has not been publicly disclosed.

DOCUMENT NUMBER-DATE

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FPSC-COMMISSION CLERK

FPL requests that the following information be granted confidential classification:

Staff Work Paper Number	Description	Page(s)	Line(s)	Type of Information
9	List of Internal audits	1-4	Col B	Internal auditing controls and reports of internal auditors
41-2/3	Company Schedule of Demand Accounts	1-12	Col 1	Customer-specific account information
41-2/3-1	Customer Bills	2, 5-6, 8, 10-13	3-6,9-20,24-25	Customer-specific account information
41-2/3-1	Customer Bills	14	3-5A,18-19,23-24	Customer-specific account information
41-2/3-1	Customer Bills	15-23	3-6,9-20,24-25	Customer-specific account information
41-2/3-1	Customer Bills	25-27	3-6,9-20,24-25	Customer-specific account information
41-2/3-2	Customer Bills	1-2	3-6,9-20,24-25	Customer-specific account information
41-2/3-2	Customer Bills	3	3-6,9-20	Customer-specific account information
41-2/3-3	Customer Bills	1-2	3-6,9-20,24-31	Customer-specific account information
41-2/3-3	Customer Bills	3	3-6,9-20,24-25	Customer-specific account information
41-2/3-3	Customer Bills	4-6	3-6,9-20,24,26	Customer-specific account information
41-2/3-4	Company Schedule of Demand Accounts	1-3	Col. 1	Customer-specific account information
41-2/3-4/1	Customer Bills	1-3	3-6,9-20,24	Customer-specific account information
41-2/3-4/3	Customer Bills	1	3-6,9-20,24	Customer-specific account information
41-2/3-4/5	Customer Bills	1	3,5-13,15-17,19-37	Customer-specific account information
41-2/3-4/5	Customer Bills	2	3,5-17,19-30,32-33	Customer-specific account information
41-2/3-4/5	Customer Bills	3	3,5-17,19-37,39-40	Customer-specific account information
41-2/3-4/5	Customer Bills	5	3,5-13,15-17,19-37	Customer-specific account information
41-2/3-4/5	Customer Bills	6	3,5-17,19-37,39-40	Customer-specific account information
41-2/3-4/5	Customer Bills	9	3,5-13,15-17,19-34, 36-37	Customer-specific account information
41-2/3-4/5	Customer Bills	10	3,5-13,15-17,19-33, 35-36	Customer-specific account information
41-2/3-4/5	Customer Bills	12	3,5-13,15-17,19-34, 36-37	Customer-specific account information
42, p2	GL of QF Account	1	All	Sensitive competitive business information

Staff Work Paper Number	Description	Page(s)	Line(s)	Type of Information
42-1	Journal Detail Sheet	1-2	All	Sensitive competitive business information
42-2	QF Estimate Billing	1	All	Sensitive competitive business information
42-2/1	Estimate by Month	1	All	Sensitive competitive business information
42-3	True Up QF	1	All	Sensitive competitive business information
43, p2	GL of 555.410	1	All	Sensitive competitive business information
43-1	UPS Check Request	1	All	Sensitive competitive business information
43-1/1	Invoice	1	All	Sensitive competitive business information
44A	GL 555.430	1	All	Sensitive competitive business information
44, p3-10	JEA Billing Schedules	1-8	All	Sensitive competitive business information
44-1	SJRPP Accrual	1-2	All	Sensitive competitive business information
44-1/1	Debt Service	1-3	All	Sensitive competitive business information
44-1/1-1	Debt Service Check Request	1	All	Sensitive competitive business information
44-1/1-1/1	Debt Service Deposit	1	All	Sensitive competitive business information
44-1/1-2	SJRPP Revenue Req.	1	All	Sensitive competitive business information
44-1/2	SJRPP Transmission	1-3	All	Sensitive competitive business information
44-1/2-1	Invoice	2	All	Sensitive competitive business information
44-1/2-2	SJRPP Transmission Payments	1	All	Sensitive competitive business information
44-1/2-3	SJRPP Debt Service	1	All	Sensitive competitive business information
44-1/2-4	JEA Billing Statement	2	All	Sensitive competitive business information
44-1/2-6	SJRPP Debt Service	1	All	Sensitive competitive business information
44-1/3	CCRA Payment Schedule	1-4	All	Sensitive competitive business information
44-1/3-1	Check Request	1-9	All	Sensitive competitive business information
44-1/4	Property Taxes	1	All	Sensitive competitive business information
44-1/4-1	Property Taxes	1-3	All	Sensitive competitive business information

Staff Work Paper Number	Description	Page(s)	Line(s)	Type of Information
44-1/5	JEA Revenue Req.	1-2	All	Sensitive competitive business information
44-1/6	Deferred Interest	1-5	All	Sensitive competitive business information
44-1/7	Dismantlement	1	All	Sensitive competitive business information
44-2	SJRPP Estimates	1	All	Sensitive competitive business information
44-3	Check Request	1-2	All	Sensitive competitive business information
44-4	Fixed and Variable Cost Schedule	1	All	Sensitive competitive business information
45-1	GL of Acct. [5]55.441	1	Col A, 10-13	Sensitive contractual and competitive business information
47-1/1-1	Invoice	1	5; Cols A-B, 23,27	Sensitive contractual and competitive business information
47-1/1-1	Invoice	2	3; Cols A-D, 14-53	Sensitive contractual and competitive business information
47-1/1-1	Invoice	3	3; Cols A-D, 5-54	Sensitive contractual and competitive business information
47-1/1-1	Invoice	4	3; Cols A-D, 5-45	Sensitive contractual and competitive business information
47-1/1-1	Invoice	5	3; Cols A-D, 5-48	Sensitive contractual and competitive business information
47-1/1-1	Invoice	6	3; Cols A-D, 6-47	Sensitive contractual and competitive business information
47-1/1-1	Invoice	7	3; Cols A-D, 5-48	Sensitive contractual and competitive business information
47-1/1-1	Invoice	8	3; Cols A-D, 6-47	Sensitive contractual and competitive business information
47-1/1-1	Invoice	9	3; Cols A-D, 5-10,14-16	Sensitive contractual and competitive business information
48-1/1	Fins Report and Invoice	1	Col A, 14-31	Sensitive contractual and competitive business information

Staff Work Paper Number	Description	Page(s)	Line(s)	Type of Information
48-1/1	Fins Report and Invoice	2	Cols A-B, 1-36	Sensitive contractual and competitive business information
48-1/1	Fins Report and Invoice	3	11,16-17	Sensitive contractual and competitive business information
48-1/1-1	Purchase Statement	1	26-28	Sensitive contractual and competitive business information
48-1/1-1	Purchase Statement	2	1,8-54,56	Sensitive contractual and competitive business information
48-1/1-2	EMT Report	1	Col A, 4-10,18-21; Col B, 4-9; Col C, 11-12	Sensitive contractual and competitive business information
48-1/1-2/1	Invoice	1	Cols A-C, 4-7,10-12, 16-18,20; Col D	Sensitive contractual and competitive business information
48-1/1-2/1-1	Purchase Statement	1	Col C, 4,15-22; Col D, 4, 15-22, 36,38; Col E 4, 15-22; Col F 4, 15-22, 36,38;	Sensitive contractual and competitive business information
48-1/1-2/1-1	Purchase Statement	2	Col A, 1,5-41; 50,53	Sensitive contractual and competitive business information
48-1/1-3	EMT Report	1	Col A, 4-8, 18-21; Col B, 4-7; Col C, 11-13	Sensitive contractual and competitive business information
49-1/1	GL Account 555.429	1-2	All	Sensitive competitive business information
49-1/2	SJRPP Suspension Accrual	1	All	Sensitive competitive business information
52-3/4-1	Security Cost Sample of Cash Vouchers	1	25	Sensitive security and contractual information
52-3/4-1	Security Cost Sample of Cash Vouchers	5	19-21,25-29	Sensitive security and contractual information
52-3/4-1	Security Cost Sample of Cash Vouchers	6	14,18-19,24-30	Sensitive security and contractual information

Staff Work Paper Number	Description	Page(s)	Line(s)	Type of Information
52-3/4-1	Security Cost Sample of Cash Vouchers	7	19	Sensitive security and contractual information
52-3/4-1	Security Cost Sample of Cash Vouchers	8	15-17,23-24,26-27,29	Sensitive security and contractual information

FPL witness Robert Onsgard, Manager of Internal Auditing, states that sensitive information concerning FPL's Internal Audit Information is contained in the working paper "List of Internal Audits." As such, argues FPL, the information should be granted confidential classification pursuant to Section 366.093(b), Florida Statutes.

FPL witness Korel Dubin, Manager of Regulatory Issues, states that customer specific account information, including bank account numbers, are contained in staff working papers titled: "Company Schedule of Demand Accounts," "Customer Bills," and "Billing Rates." Witness Dubin testifies that it is FPL's corporate policy not to disclose customer information, including customer names, addresses, telephone numbers, account numbers, rates, billing determinates, conservation savings, and bills. According to the witness, FPL does not disclose this information without customer consent, unless required by law.

FPL witness Osvaldo J. Lom, Supervisor of Purchased Power Contracts states that certain of FPL's competitively sensitive business information is contained in staff working papers titled: "GL of QF Account," "Journal Detail Sheet," "QF Estimate Billing," "Estimate by Month," "True Up QF," "GL of 555.410," "UPS Check Request," "Invoice," "GL 555.430," "JEA Billing Schedules," "SJRPP Accrual," "Debt Service," "Debt Service Check Request," "Debt Service Deposit," "SJRPP Revenue Req.," "SJRPP Transmission," "SJRPP Transmission Payments," "SJRPP Debt Service," "JEA Billing Statement," "CCRA Payment Schedule," "Check Request," "Property Taxes," "JEA Revenue Req.," "Deferred Interest," "Dismantlement," and "SJRPP Estimates." According to FPL, some of the proprietary information concerns St. Johns River Power Park (SJRPP), a Jacksonville Electric Authority (JEA) and FPL venture. JEA maintains certain of the SJRPP information as confidential pursuant to Section 163.01 Florida Statutes. FPL concludes that we should also maintain this information as confidential because it would harm the competitive business of both JEA and FPL.

FPL witness Gerard J. Yupp, Director of Wholesale Operations in the Energy Marketing and Trading Division, states that certain of FPL's sensitive contractual and competitive business information is contained within the following staff working papers: "GL of Acct. [5]55.441," "Invoice," "Fins Report and Invoice," "Purchase Statement," "EMT Report," "GL Account 555.429," and "SJRPP Suspension Accrual." According to FPL the release of this information would place FPL at a competitive disadvantage when coupled with other information that is publicly available. FPL concludes that the release of this information could harm the competitive business of FPL and could harm FPL and its affiliates' ability to contract on favorable terms.

FPL witness Walter E. Gwinn, Manager of Financial Performance in the Nuclear Business Unit, states that staff working papers titled "Security Cost – Sample of Cash Vouchers" contain information about security measures and security agreements. According to FPL, the information is sensitive security and contractual information which should be granted confidential treatment.

Upon review, it appears that the above-referenced information satisfies the criteria set forth in Section 366.093(3), Florida Statutes, for classification as proprietary confidential business information and shall be treated as confidential. The information constitutes "[i]nternal auditing controls and reports of internal auditors," "[s]ecurity measures, systems or procedures," "[i]nformation concerning bids or other contractual data, the disclosure of which would impair the efforts of the public utility or its affiliate to contract for goods or services on favorable terms," or "[i]nformation relating to competitive interests, the disclosure of which would impair the competitive business of the provider of the information." Thus, this information is granted confidential classification.

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.

Based on the foregoing, it is

ORDERED by Commissioner Matthew M. Carter II, as Prehearing Officer, that Florida Power & Light's Request for Confidential Classification of Document Nos. 03638-06 and 04040-06 is granted. It is further

ORDERED that the information in Document Nos. 03638-06 and 04040-06 for which confidential classification has been granted shall remain protected from disclosure for a period of 18 months from the date of issuance of this order. It is further

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

By ORDER of Commissioner Matthew M. Carter II, as Prehearing Officer, this 28th day of November, 2007.


MATTHEW M. CARTER II
Commissioner and Prehearing Officer

(S E A L)

LCB/pz

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 Office of Commission Clerk, 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.