

## BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Fuel and Purchased Power )	DOCKET NO. 900001-EI
Cost Recovery Clause and Generating )	ORDER NO. 23836
Performance Incentive Factor )	ISSUED: 12-6-90
_____)	

ORDER REGARDING CONFIDENTIALITYJUSTIFICATION

Florida Power & Light Company (FPL) requests confidentiality of certain Commission staff workpapers (Commission Document No. 340-90) containing information obtained from FPL pursuant to several Document/Record Requests (D/RR) during the fuel audit for the six months ended September 30, 1989. The pertinent information is described as follows:

<u>Workpaper (page(s))</u>	<u>D/RR #</u>	<u>Description</u>
42-2/3 (6, 7, 8)	2	Sample of Fuel Transactions
42-2/3-2 (1-13)	2	Average Unit Cost Calculation
25 (2)	4	Review of Contracts
25-2 (1)	4	Review of Contracts
25-3 (1, 2)	4	Review of Contracts
9-1 (1, 2, 3)	3	Review of Internal Audits - fuel resources - coal
9-2 (1, 2, 3)	3	Review of Internal Audits - fuel resources - nuclear
9-3 (1, 2, 3, 4)	3	Review of Internal Audits - fuel resources - oil

FPL asserts that the information in workpapers 42-2/3 and

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42-2/3-2 above to which access was provided in response to D/RR #2, reflects "information concerning fuel supply contracts and pricing information, including, but not limited to, the actual purchase orders and contracts," and "information concerning service provided under contracts relating to the receipt and handling of fuel." FPL further asserts that if this information were released to the public, FPL's bargaining position with its suppliers would be compromised, thus impairing FPL's efforts to contract for services on favorable terms in the future. Section 366.093(d), Florida Statutes.

The information highlighted in WP 42-2/3 (6, 7, 8) and 42-2/3-2 (1-13), described above as Sample of Fuel Transactions and Average Unit Cost Calculation, respectively, does reflect fuel vendors, prices, and quantities which, if made public, could impair FPL's efforts to contract for goods and services on favorable terms. I find that the highlighted portions of WP 42 -2/3 (6, 7, 8) and 42-2/3-2 (1-13) are entitled to specified confidential classification.

FPL asserts that the information in workpapers 25, 25-2, and 25-3 above, to which access was provided in response to D/RR #4, reflects "information concerning fuel supply contracts and pricing information including, but not limited to, the actual purchase orders and contracts." FPL further asserts that if this information were released to the public, FPL's bargaining position with its suppliers would be compromised, thus impairing FPL's efforts to contract for services on favorable terms in the future. Section 366.093(3)(d), Florida Statutes.

The information highlighted in WP 25 (2), 25-2 (1), and 25-3 (1, 2), described above as Review of Contracts, reflects the contract costs of natural gas, UF6 nuclear fuel, and fabricate nuclear fuel, respectively. FPL's original request for confidentiality of this information lacked the specificity necessary to justify maintaining confidentiality of the costs of natural gas and nuclear fuel. In an amendment to the request, however, FPL incorporated by reference the justification provided in support of its request for confidentiality of nuclear fuel and natural gas price information for the six months ended March 31, 1990. I ruled on that request in Order No. 23696, issued on October 29, 1990. FPL adds that the justification provided as to the nuclear fuel inspection services market "is applicable to the

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nuclear fuel market as a whole, since there are only some twenty firms worldwide which can supply FPL's nuclear fuel needs." In Order No. 23696, I found that FPL's justification of its request for confidentiality of natural gas and nuclear fuel price information, set forth in detail in the order, demonstrated that confidential classification was justified. Consistent with that order, I find FPL has justified its request for specified confidential classification of the information highlighted in WP 25, 25-2, and 25-3.

FPL asserts that the information in workpapers 9-1, 9-2, and 9-3 above, to which access was provided in response to D/RR #3, reflects the reports of internal auditors and therefore is entitled to specified confidential classification pursuant to Section 366.093(3)(b), Florida Statutes. Although FPL states in its request that the reports of internal auditors cannot be edited, the Commission workpapers do not contain the actual internal audit reports of FPL; rather, the workpapers contain Commission staff notes on the reports. Further, FPL has reviewed the workpapers and highlighted the portions deemed to require confidentiality.

The highlighted portions reflect the names of fuel vendors. It appears that such information would more appropriately be classified pursuant to Section 366.093(3)(d) rather than 366.093(3)(b), Florida Statutes. With the exception of the highlighted material at WP 9-3 (3), the nature of the highlighted material indicates a concern for contract information rather than the integrity of future internal audits. I find, however, that the highlighted material in WP 9-1 (1-4), 9-2 (1-5), and 9-3 (1, 2 and 4), is not entitled to specified confidential classification because it reflects only the names of vendors without any accompanying cost data. I find that WP 9-3 (3) is entitled to specified confidential classification because the highlighted material identifies specific auditors and future audit plans.

#### DECLASSIFICATION

FPL proposes the following declassification schedule (only the dates pertaining to the parts of the request which have been granted are included):

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<u>Workpapers (pages)</u>	<u>Proposed Declassification Date</u>
42-2/3 (6, 7, 8) and 42-2/3 - 2 (1-13) [Information pertaining to oil]	June 30, 1991
42-2/3 (6, 7, 8) and 42-2/3-2 (1-13) [Information pertaining to gas]	December 3, 2003
25 (2)	December 31, 1991
25-2 (1)	December 31, 1995
25-3 (1, 2)	December 31, 2000
9-3 (3)	20 years

The proposed declassification dates for 42-2/3 (6, 7, 8) and 42-2/3-2 (1-13), 25 (2), 25-2 (1), and 25-3 (1, 2) exceed the 18 month classification period allowed under the statute, Section 366.093(4), Florida Statutes. FPL asserts that the proposed dates are six months after the expiration of the pertinent contracts, and that the disclosure of the information before that time could adversely affect future negotiations and impair its competitive position.

The proposed declassification date for 9-3 (3) also exceeds the 18 month classification period allowed under the statute. FPL asserts that internal auditor report information has no definable period after which it would no longer require confidentiality because "[t]he publication of internal auditing reports would potentially compromise the objectivity and candidness of internal auditors in making their reports." FPL does suggest declassification after 20 years, however. I find that FPL has shown good cause for the proposed declassification schedule and hereby approve that schedule. FPL should resubmit highlighted copies of workpapers 42-2/3 and 42-2/3-2, indicating which material pertains to oil and which to gas since the declassification dates for these categories differ.

In consideration of the foregoing it is hereby



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ORDERED that the request for specified confidential classification of the highlighted portions of workpapers 42-2/3, 42-2/3-2, 25, 25-2, 25-3, and 9-3 (3), as discussed above, is granted. It is further

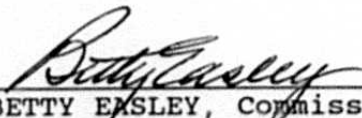
ORDERED that the request for specified confidential classification of the highlighted portions of workpapers 9-1, 9-2, and 9-3 (1, 2 and 4), as discussed above, is denied. It is further

ORDERED that the proposed declassification schedule set forth in the body of this order is approved. It is further

ORDERED that FPL resubmit highlighted workpapers 42-2/3 and 42-2/3 - 2 to indicate which material pertains to gas and which to oil as discussed above. It is further

ORDERED that if pursuant to Rule 25-22.006(3)(b), Florida Administrative Code, a protest is filed within 14 days of the date of this Order, it will be resolved by the appropriate Commission panel pursuant to Rule 25-22.006(3)(c), Florida Administrative Code.

By ORDER of Commissioner Betty Easley, as Prehearing Officer, this 6th day of DECEMBER, 1990.

  
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BETTY EASLEY, Commissioner  
and Prehearing Officer

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