

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Energy conservation cost
recovery clause.

DOCKET NO. 980002-EG
ORDER NO. PSC-98-1024-CFO-EG
ISSUED: July 28, 1998

ORDER GRANTING CONFIDENTIAL CLASSIFICATION FOR CERTAIN MATERIALS
OBTAINED DURING THE CONSERVATION RECOVERY AUDIT OF FLORIDA POWER
& LIGHT COMPANY (DOCUMENT NOS. 00395-98 AND 13247-97)

Pursuant to Rule 25-22.006, Florida Administrative Code, and Section 366.093(3), Florida Statutes on January 8, 1998, Florida Power & Light Company (FPL) filed a request that certain portions of the staff working papers obtained during the conservation cost recovery audit receive confidential classification. FPL asserts that the information for which confidential classification is requested is proprietary, confidential business information which is intended to be, and is, treated by FPL as private and has not been publicly disclosed. FPL also asserts that disclosure of this information would cause harm to the company and its ratepayers. FPL requests that this information be granted confidential classification for a period of eighteen months from the issuance of this order.

Specifically, FPL requests that workpaper no. 9, "report disclosure" page 1, Column C, lines 2-5, 7-12; workpaper 10-30 "company's response to document record request," page 1, lines 2-5, page 2, lines 1-5 and 8; and, workpaper 43-8/1, "sample of source code 50s," page 1, Column A, line 22, Column B, lines 1-28, Column C, lines 22-28, page 2, Column A, lines 1 and 6, Column B, lines 1-3, 6-8, 13, 19-25, 30, Column C, lines 1-12, be granted confidential classification because the information consists of FPL attorney-client privileged information "relating to competitive interests, the disclosure of which would impair the competitive business of the provider of the information." Section 366.093(3)(e). FPL asserts that this information is and has been maintained in strict confidence by the utility.

FPL requests confidential classification of the information contained in workpaper 9-1/5, "Notes from internal audit workpapers," pages 1-9, in their entirety. FPL argues that this material is related to or derived from internal auditing reports of

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internal auditors within the meaning of Section 366.093(3)(b), Florida Statutes.

FPL requests that workpaper 10-11, "document records requirement 11, showing customer's information," page 1, Column C, lines 1-6; workpaper 41-1/4, "customers' bills," pages 1-9, lines 2-5, workpaper 43-8/1, "sample of source code 50s," page 1, Column A, line 22, Column B, lines 1-28, Column C, lines 22-28, page 2, Column A, lines 1 and 6, Column B, lines 1-3, 6-8, 13, 19-25, 30, Column C lines 1-12; workpaper 44-1/1-1/1, "ECCR for CILC tariffs," pages 1-33, Column A; workpaper 44-1/1-1/1-1, "Commercial industrial load control credits-customer information," page 1, lines 2 and 6; workpaper 44-1/1-1/1-2, "Commercial industrial load control credits--customer information," page 1, line 6; workpaper 44-1/1-1/1-3, "commercial industrial load control credits-customer information," line 6; workpaper 44-1/1-1/1-4 "commercial industrial load control credits-customer information," line 6; workpaper 44-1/1-1/1-5, "commercial industrial load control credits-customer information," line 6; workpaper 44-1/1-1/1-6 "commercial industrial load control credits-customer information," line 6; workpaper 44-1/1-1/1-7, "commercial industrial load control credits-customer information," line 6; workpaper 58, "commercial industrial lighting incentive certificates," pages 1-4, lines 1-5, 6 and 7, pages 5-8, lines 1-3, pages 9 and 10, lines 1-5, 6 and 7, page 13, lines 1-6, page 14 lines 1-3, page 15, lines 1-7, page 16, lines 2-9, page 17, Column A, lines 3-5, Column B, lines 1-4, Column C, lines 2 and 3, pages 20-23, lines 1-7, page 24, line 1, page 26 in its entirety, pages 27-29, lines 1-7, and Column A, be granted confidential classification because this information is related to or derived from certain customer's account information. FPL contends that it maintains such customer account information in confidence for the benefit of its customers and does not disclose such information to third parties except as required by law or with the permission of the customer. FPL asserts that this information "relates to competitive interests, the disclosure of which would impair the competitive business of the provider of the information." Section 366.093(3)(e). FPL maintains that disclosure of this information would cause harm to its competitive interests by disclosing private information its customers would not otherwise allow to be disclosed. This could lead to uneconomic bypass of FPL's facilities as customers might seek other means of meeting their energy requirements which would not entail the disclosure of their private information.

FPL asserts that the information contained in workpaper 43-8/1, "sample of source code 50s," page 1, Column A, line 22, Column B, lines 1-28, Column C, lines 22-28, page 2, Column A, lines 1 and 6, Column B, lines 1-3, 6-8, 13, 19-25, 30, Column C lines 1-12; workpaper 58, pages 9 and 10, lines 1-5, 6 and 7, page 13, lines 1-6, page 14, lines 1-3, page 15, lines 1-7, page 16, lines 2-9, page 17, Column A, lines 3-5, Column B, lines 1-4, Column C, lines 2 and 3, pages 20-23, lines 1-7, and pages 27-29, lines 1-7, and Column A is entitled to confidential classification because it is related to or derived from contract pricing information of certain FPL lighting contractors/vendors. FPL contends that it maintains such information in confidence for the benefit of its customers who may have paid for such energy conservation services and for the benefit of the vendors themselves. FPL asserts that the disclosure of such contract pricing information would impair the competitive business of the particular vendors involved. FPL maintains that it does not disclose such information to third parties except as required by law or with the permission of the vendor or customer. FPL asserts that this information "relates to competitive interests, the disclosure of which would impair the competitive business of the provider of the information." Section 366.093(3)(e). FPL maintains that disclosure of this information would cause harm to its competitive interests by disclosing private information its vendors would not otherwise allow to be disclosed. This could lead to higher prices for FPL ratepayers as vendors with whom FPL has negotiated favorable rates might refuse to do further business with the utility if their private, contractual information would no longer be private.

FPL maintains that the information contained in workpaper 43-10/1 "backup to sample of source code 60s showing employee's name and social security," page 1 column B is entitled to confidential classification. Normally, partial employee social security numbers used merely for employee identification are not protected under Section 366.093, Florida Statutes. In this instance, however, the entire number can be derived from the portions provided. Because of this, the information contained in workpaper 43-10/1 "backup to sample of source code 60s showing employee's name and social security," page 1 column B is entitled to confidential classification. FPL argues that this is employee personnel information unrelated to compensation, duties, qualifications, or responsibilities within the meaning of Section 366.093(3)(f), Florida Statutes.

FPL requests that the information contained in workpaper 43-8/1, "sample of source code 50s," page 1, Column A, line 22, Column B, lines 1-28, Column C, lines 22-28, page 2, Column A, lines 1 and 6, Column B, lines 1-3, 6-8, 13, 19-25, 30, Column C, lines 1-12, page 58; and workpaper 58, "commercial industrial lighting incentive certificates," pages 1-4, lines 1-5, 6 and 7, pages 9 and 10, lines 1-5, 6 and 7, page 13, lines 1-6, page 14 lines 1-3, page 15, lines 1-7, page 16, lines 2-9, page 17, Column A, lines 3-5, Column B, lines 1-4, Column C, lines 2 and 3, pages 20-23, lines 1-7, pages 27-29, lines 1-7, and Column A, be granted confidential classification because this information is related to or derived from contract pricing information of certain FPL lighting contractors/vendors. FPL contends that this information is kept in confidence for the benefit of its customers who may have paid for such energy conservation services and for the benefit of the vendors themselves. FPL argues that the disclosure of such contract pricing information "would impair the efforts of the public utility or its affiliates to contract for goods or services on favorable terms." Section 366.093(3)(d). FPL maintains that it does not disclose such information to third parties except as required by law or with the permission of the vendor or customer. FPL asserts that this information is proprietary confidential business information under Section 366.093(3)(e), Florida Statutes.

Upon review, it appears that the information for which confidential classification is sought is confidential proprietary business information within the meaning of Section 366.093, Florida Statutes. Therefore, those portions of Document Nos. 00395-98 and 13247-97 discussed above are granted confidential classification. FPL requested that the protected information be granted confidential classification for a period of eighteen months from the date of the issuance of this Order pursuant to Section 366.093(4), Florida Statutes. FPL's request that the information be returned once the Commission no longer needs it to conduct its business must, however, be denied. Commission Staff audit workpapers are retained by the Commission for a period of 25 years as part of its accounting practices. If, prior to the expiration of the confidential time period, FPL wishes to petition for continued confidential classification of this information, it may do so for good cause shown.

It is therefore

ORDERED by Commissioner Susan F. Clark, as Prehearing Officer, that the information discussed above and contained in Document Nos.

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00395-98 and 13247-97 is granted confidential classification. It is further

ORDERED that the information discussed above and contained in Document Nos. 00395-98 and 13247-97 is granted confidential classification for a period of eighteen months. It is further

ORDERED that this Order will be the only notification by the Commission to the parties of the declassification date of this material.

By ORDER of Commissioner Susan F. Clark, as Prehearing Officer, this 28th Day of July, 1998.



SUSAN F. CLARK
Commissioner and Prehearing Officer

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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.

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 25-22.038(2), Florida Administrative Code, if issued by a Prehearing Officer; 2) reconsideration within 15 days pursuant to Rule 25-22.060, Florida Administrative Code, if issued by the Commission; or 3) 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 Director, Division of Records and Reporting, 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.