

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

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

DOCKET NO. 100001-EI
ORDER NO. PSC-10-0214-CFO-EI
ISSUED: April 5, 2010

ORDER GRANTING FLORIDA POWER & LIGHT COMPANY'S
REQUEST FOR CONFIDENTIAL CLASSIFICATION
(DOCUMENT NOS. 11377-08, 11378-08, AND 11414-08)

On December 10, 2008, pursuant to Section 366.093(3), Florida Statutes (F.S.), and Rule 25-22.006(4), Florida Administrative Code ("F.A.C."), Florida Power & Light Company ("FPL") filed a Request for Confidential Classification of certain material prepared by Florida Public Service Commission Staff ("staff") during the "Florida Power & Light Affiliate Audit for the period July 2007 through June 2008," Audit Control No. 08-221-4-1 (the "affiliate audit")(Document Nos. 11377-08, 11378-08, and 11414-08). These documents consist of selected portions of staff's working papers prepared during the audit. This request was filed in Docket No. 080001-EI.

Section 366.093(1), F.S., 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 Section 119.07(1) [the Public Records Act]." Section 366.093(3), F.S., 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. Paragraphs (d) and (e) of Section 366.093(3), F.S., provide that proprietary confidential business information includes, but is not limited to "[i]nformation concerning bids or other contractual data, the disclosure of which would impair the efforts of the public utility or its affiliates 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 portions of the information contained in the staff working papers prepared during the affiliate audit, as more specifically described in the Table in Attachment A, fall within these categories and, thus, constitute proprietary confidential business information entitled to protection under Section 366.093, F.S., and Rule 25-22.006, F.A.C. FPL states that this information is intended to be and is treated by FPL as private and has not been publicly disclosed.

FPL asserts that certain information contained in portions of staff's working papers prepared during the affiliate audit consists of contractual vendor data, such as pricing and other terms, the disclosure of which would impair the efforts of FPL or FPL Energy Services, Inc. ("FPLES") to contract with other parties for goods or services on favorable terms in the future. FPL further asserts that other portions of the information is competitively sensitive data that if

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disclosed would place FPL or FPLES at a competitive disadvantage, to the detriment of FPL and its ratepayers.

Ruling

Upon review, it appears the above-referenced information, specifically described in the table in Attachment A, satisfies the criteria set forth in Section 366.093(3), F.S., for classification as proprietary confidential business information. The information constitutes “information concerning bids or other contractual data, the disclosure of which would impair the efforts of the public utility or its affiliates to contract for goods or services on favorable terms” and/or “information relating to competitive interests, the disclosure of which would impair the competitive business of the provider of the information” as described by Section 366.09.3(3)(d) and (e), F.S. The information has not become stale or public. Further, the Commission’s records retention policy requires audit documents be retained by the Commission for a period of 25 years; thus, the documents cannot be returned to the source. Accordingly, FPL’s request for confidential classification of specified portions of the information contained in Document Nos. 11377-08, 11378-08, and 11414-08, as detailed in Attachment A, shall be granted.

I note that while it has been approximately 15 months since the date of FPL’s request, the Commission routinely grants at least one extension of confidential classification for audit working papers. Accordingly, I find it appropriate, pursuant to Section 366.093(9), F.S., that 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), F.S., 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 Nathan A. Skop, as Prehearing Officer, that Florida Power & Light Company’s Request for Confidential Classification of information contained in Document Nos. 11377-08, 11378-08, and 11414-08, as specifically described in Attachment A, is granted. It is further

ORDERED that the information in Document Nos. 11377-08, 11378-08, and 11414-08 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 Nathan A. Skop, as Prehearing Officer, this 5th day of April, 2010.



NATHAN A. SKOP
Commissioner and Prehearing Officer

(S E A L)

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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.

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.

ATTACHMENT A
FPL AFFILIATES AUDIT
AUDIT CONTROL NO. 08-221-4-1

Work paper No.	Description	No. of Pages	Line No./Col No.
44 p.1	Summary	1	Page 1, Lines 13-14
44-1	Transactions	1	Page 1, Columns A-C
44-1/1	Detail of Transactions	1	Page 1, Columns A-D
44-2	Transactions	1	Page 1, Columns A-C
44-2/1	Detail of Transactions	2	Pages 1-2, Columns A-G
44-3	Transactions	2	Page 1, Lines 1-10, 12-17 Page 2, Lines 1-8
44-3/1	Invoice	2	Page 1, Lines 1- 2, Column A-B Page 2, Lines 1a, 3-8
44-3/2	Invoice	3	Page 1, Lines 1-2, Column A-B Page 3, Lines 1a, 3-7
44-3/3	Invoice	2	Page 1, Line 1-2, Column A-B Page 2, Lines 1a, 1g-5
44-3/4	Invoice	2	Page 1, Line 1-2, Column A-B
44-3/5	Invoice	2	Page 1, Line 1-2, Column A-B Page 2, Lines 1a, 1g-5
44-3/6	Invoice	2	Page 1, Line 1-2, Column A-B Page 2, Lines 1a, 1h-5
44-3/7	Invoice	2	Page 1, Line 1-2, Column A-B Page 2, Lines 1a, 1h-5
44-3/8	Invoice	2	Page 1, Line 1-2, Column A-B Page 2, Lines 1a, 1h-5
44-3/9	Contract	2	Pages 1-2, ALL
44-3/10	Explanations, price schedule	2	Page 1, Lines 11-16 Page 2, Line 1, 2-3 Columns A-J
44-3/10-1	Explanations	2	Page1, Lines 7, 9-11, 13, 16-17, 19, 21 Page 2, Lines 1-6
46-1	Products/Services	2	Page 1, Lines 26
48-1/1	Deal Form	2	Page 1, Lines 1-6 Page 2, Lines 1-10
48-1/1-1	Invoice	2	Page 1, Columns A-D Page 2, Columns A-J
48-1/2	Deal Form	1	Page 1, Lines 1-7
48-1/2-1	Invoice	2	Page 1, Columns A-D
48-1/2-2	Purchase Statement	2	Page 1, Columns A-D Page 2, Columns A-E
48-1/3	Deal Form	1	Page 1, Lines 1-10
48-1/3-1	Invoice	2	Page 2, Columns A-D
48-1/3-2	Purchase Statement	3	Page 1, Columns A-D Page 2, Columns A-D Page 3, Columns A-G
48-1/4	Deal Form	1	Page 1, Lines 1-10
48-1/4-1	Invoice	2	Page 1, Columns A-D

Work paper No.	Description	No. of Pages	Line No./Col No.
			Page 2, Columns A-H
48-1/5	Deal Form	1	Page 1, Lines 1-10
48-1/5-1	Invoice	2	Page 2, Columns A-D
48-1/5-2	Purchase Statement	2	Page 1, Columns A-D Page 2, Columns A-G
48-1/6	Deal Form	1	Page 1, Lines 1-10
48-1/6-1	Invoice	2	Page 1, Columns A-D Page 1, Columns A-G
48-1/7	Deal Form	1	Page 1, Lines 1-10
48-1/7-1	Invoice	2	Page 2, Columns A-D
48-1/7-2	Purchase Statement	3	Page 1, Columns A-D Page 2, Columns A-D Page 3, Columns A-G
48-1/8	Deal Form	1	Page 1, Lines 1-8
48-1/8-1	Invoice	2	Page 1, A-D Page 2, A-F
48-1/9	Deal Form	1	Page 1, Line 1-8
48-1/9-1	Invoice	2	Page 2, Columns A-D
48-1/9-2	Purchase Statement	3	Page 1, Columns A-D Page 2, Columns A-D Page 3, Cols A-F
48-2	Confirmations	10	Page 1, Lines 8-9, 12-16 Page 3, Lines 8-9, 12-27 Page 5, Lines 8-9, 12-31 Page 7, Lines 8-9, 12-31 Page 9, Lines 8-9, 12-25
48-2/1	Prices	2	Page 2, Lines 1-2
48-3	Confirmations	7	Page 1, Lines 8-9, 12-16 Page 2, Lines 8-9, 12-27 Page 3, Lines 8-9, 12-31 Page 5, Lines 8-9, 12-31 Page 7, Lines 8-9, 12-25
48-4	Contract	9	Pages 1-9, ALL
48-5	Contract	9	Pages 1-9, ALL
48-6	Contract	20	Pages 1-19, ALL
48-7 p.1	Gas closing report	1	Lines 3-4, 5-9, 10-12
48-7 p.2	Explanations	1	ALL
48-7/1	Purchase Statement	2	Page 1, Columns A-D
48-7/1-1	Invoice	2	Page 1, Columns A-I
48-7/1-2	Confirmation	1	Lines 8-9, 12
48-7/2	Purchase Statement	2	Page 1, Columns A-D Page 2, Columns A-D
48-7/2-1	Invoice	1	Columns A-G
48-7/2-2	Confirmation	1	Lines 6-12, 14-18
48-7/2-3	Publication	1	Lines 15, 18-24, 28-29
48-7/3	Purchase Statement	1	Columns A-D
48-7/3-1	Invoice	2	Page 1, Lines 7-11 Page 2, Line 7-9

Work paper No.	Description	No. of Pages	Line No./Col No.
48-7/3-2	Confirmation	2	Page 1, Lines 15, 18-23, 28-29 Page 2, Lines 15- 18-23, 28-29
48-7/4	Purchase Statement	1	Columns A-D
48-7/4-1	Invoice	1	Columns A-F
48-7/4-2	Confirmation	2	Page 1, Lines 15, 18-23, 28-29 Page 2, Lines 14, 17-22, 27-28
48-7/5	Purchase Statement	1	Columns A-D
48-7/5-1	Invoice	3	Page 1, Lines 12-13 Page 2, Lines 13-16 Page 3, Columns A-G
48-7/5-2	Confirmation	3	Page 1, Lines 8-9, 12 Page 2, Lines 8-9, 12 Page 3, Lines 8-9, 12
48-8	Gas closing report	1	Lines 4-5, 7-10, 17, 19-20
48-9	Gas closing report	1	Lines 3-4, 6-8, 18-20
48-10	Gas closing report	1	Lines 3-4, 6-7, 15-17
49-1/1	Deal Forms	6	Pages 1-5, Columns A-H Page 6, Columns A-I
49-1/1-1	Invoice	2	Page 1, Lines 4, 19, 21 Page 2, Columns A-D
49-1/2	Deal Form	6	Pages 1-6, Columns A-G
49-1/2-1	Purchase Statement	5	Pages 1-3, Columns A-D Pages 4-5, Columns A-E
49-1/2-2	Purchase Statement	3	Page 1, Columns A-D Page 3, Columns A-I
49-1/2-3	Settlement statement	2	Pages 1-2, ALL
49-1/3	Deal Forms	5	Pages 1-5, Cols A-G
49-1/3-1	Invoice	2	Page 1, Lines 4, 17, 20 Page 2, Columns A-D
49-1/4	Deal Forms	5	Pages 1-5, Columns A-G
49-1/4-1	Purchase Statement	2	Page 1, Columns A-D Page 2, Columns A-H, Lines 1-2
49-1/4-2	Purchase Statement	2	Page 1, Columns A-D Page 2, Columns A-E, Lines 1-2
49-1/4-3	Purchase Statement	3	Page 1, Columns A-D Page 2, Columns A-I Page 3, Columns A-J, Lines 1-2
49-1/4-4	Settle statement	2	Pages 1-2, ALL
49-1/5	Deal Forms	4	Pages 1-4, Columns A-G
49-1/5-1	Purchase Statement	2	Page 1, Columns A-D Page 2, Lines 4, 14-15
49-1/6	Deal Forms	4	Pages 1-4, Columns A-G
49-1/6-1	Invoice	4	Page 1, Columns A-D Page 2, Column A Page 3, Cols A-B Page 4, Columns A-E, Lines 1-3
49-1/6-2	Invoice	4	Page 1, Columns A-D Page 2, Lines 1-2, Column A Page 3, Columns A-B

Work paper No.	Description	No. of Pages	Line No./Col No.
			Page 4, Columns A-H, Lines 1 -2
49-1/6-3	Settlement statement	2	Pages 1-2, ALL
49-1/7	Deal Form	1	Page 1, Columns A-G
49-1/7-1	Purchase Statement	2	Page 1, Lines 3, 12-17 Page 2, Lines 4, 15-16
49-1/8	Deal Form	1	Columns A-G
49-1/8-1	Invoice	4	Page 1, Columns A-D Page 2, Line 1-2, Column A Page 3, Columns A-B Page 4, Columns A-H, Lines 1-2
49-1/8-2	Settlement statement	2	Pages 1-2, ALL
49-2/1	Confirmations	3	Page 1, Lines 12, 14, 16-18a, 24-29 Page 3, Columns A-C
49-2/2	Confirmations	3	Page 1, Lines 12, 14, 16-19, 25-31 Page 3, Columns A-C
49-2/3	Confirmations	3	Page 1, Lines 12, 14, 15-18, 24-29 Page 3, Columns A-C
49-2/4	Confirmations	3	Page 1, Lines 11, 13-17, 23-28 Page 3, Columns A-C
49-2/5	Confirmations	3	Page 1, Lines 12, 14-18, 24-29 Page 3, Columns A-C
49-2/6	Confirmations	3	Page 1, Lines 12, 14-17a, 23-28 Page 3, Columns A-C
49-4/1	Confirmations	4	Page 2, Columns A-C, Lines 2-3, 6-9, 16-22
49-4/2	Confirmations	4	Page 1, Line 30 Page 2, Lines 2-3, 5, 7-10, 13, 17-234
49-4/3	Confirmations	4	Page 1, Line 30 Page 2, Lines 1-2, 5, 7-10, 13, 17-23
49-4/4	Confirmations	4	Page 1, Line 29 Page 2, Lines 1-2, 4, 6-9, 12, 15-21
49-4/5	Confirmations	4	Page 2, Lines 1, 3-4, 6, 8-11, 14, 18-24
49-4/6	Confirmations	3	Page 1, Lines 23, 25, 28-29 Page 2, Lines 4-5, Columns A-D
49-5/1	Confirmations	1	Page 1, Lines 16, 18-24
49-5/2	Confirmations	1	Page 1, Lines 16, 18-24
49-6	Confirmations	3	Page 1, Lines 24, 26, 29, 30, 40 Page 2, Lines 3-4, 6
49-7	Confirmations	1	Page 1, Lines 19, 22-27