

ORIGINAL

7-31-00

State of Florida



Public Service Commission

MEMORANDUM
FPSC, CLK - CORRESPONDENCE
 Administrative Parties Consumer

RECEIVED

DATE: July 24, 2000

DOCUMENT NO. 17096-01

JUL 25 2000

TO: Division of Appeals (Brown)

DISTRIBUTION: *aw*

FPSC - Records/Reporting

FROM: Division of Regulatory Oversight (Freeman, Vandiver)

RE: Docket 000814-GU, Recommendation concerning Florida Public Utilities Company (FPU's) request for confidential classification for a portion of the staff working papers obtained during the preparation of audit report numbered 00-054-4-2, Surveillance Audit of FPU Fernandina Beach Division for the year ended December 31, 1999, Documents Number [REDACTED]

1-24-2002

On June 12, 2000, when copies of certain portions of staff's audit working papers obtained regarding the FPU Fernandina Beach Division surveillance audit for the year ended December 31, 1999, were delivered to FPU at the audit exit conference, the utility requested that these materials be temporary excepted from public access in accordance with the provisions of Rule 25-22.006(3)(a)(2), Florida Administrative Code (FAC). On May 2, 2000, staff filed document 07438-00 consisting of those specified portions of the audit working papers,

On July 3, 2000, the utility filed a request pursuant to Section 366.093, Florida Statutes (F.S.) and Rule 25-22.006, FAC, that selected portions of the working papers prepared by staff during the audit receive confidential classification. The utility's request included redacted copies for public inspection (Exhibit C, document 08119-00) and highlighted copies (document 08120-00).

Documents 07438-00 and 08120-00 are currently held by the Commission's Division of Records and Reporting as confidential pending resolution of FPU's request for confidential classification.

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) provides the following:

"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 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 FPU filing reveals the sensitive materials presented in the filing consist of copies or notes taken from the working papers of Deloitte & Touche, the utility's external auditor. These materials consist of:

1. Deloitte and Touche working papers testing FPU financial information for such categories as cash receivables, prepaid expenses, PGA over/under recoveries, liabilities, and revenues and as well as the external auditor's summaries of corporate minutes;
2. Letter from FPU to Deloitte & Touche regarding the representations and disclosures made to Deloitte & Touche during the audit;
3. Deloitte and Touche working papers describing internal controls of the FPU payroll application system;
4. Deloitte and Touche working papers testing depreciation accounts of FPU's Marianna and Fernandina electric properties; and
5. Deloitte and Touche working papers testing the utility's expense data.

The utility reports these documents are intended to be and are treated by FPU and Deloitte and Touche as confidential.

Staff Analysis of the Request (continued)

The utility requests confidential protection for the working papers of Deloitte and Touche on the basis that release of this material would harm the competitive business of the external auditor. The Commission has previously decided this issue in Commission Order 25297, dated November 5, 1991, where the competitive strategy and work program methodology of the external auditor qualified for a confidential classification.

Reading the sensitive material reveals it is the valuable analytical work methods of the external auditor demonstrating the auditor's strategy and methodology. We therefore recommend the working papers, notes taken from the working papers, and this correspondence between FPU and Deloitte and Touche be granted confidential protection.

Duration of the Confidential Classification Period

The utility requests that the material be granted confidential classification for at least 18 months. According to the provisions of Section 366.093(4), F.S., absent good cause shown for a longer period of protection, a confidential classification is limited to 18 months. We therefore recommend that the period of classification be set as 18 months.

Detailed Recommendation

Staff Work Paper Number	Page(s)	Line(s)	Recommend	Type of Information Classified Confidential
9	1-6	All	Grant	Contains information the release of which would disclose the audit strategy and work methodology and harm the competitive business of the utility's external auditor
9-2	4-18	All	Grant	Contains information the release of which would disclose the audit strategy and work methodology and harm the competitive business of the utility's external auditor

Page 4
FPU-Fernandina Beach
Confidential Recommendation
July 24, 2000

Close the Docket

Once an order resolving the company's request becomes final, this docket should be closed.

A copy of this recommendation will be held as a temporary file at I:08120-00.RAF.

CC: Division of Regulatory Oversight (Pelt, Welch)
Division of Competitive Services (Slemkewicz)
✓ Division of Records and Reporting (Flynn)

Marguerite Lockard

From: Kay Flynn
Sent: Wednesday, July 05, 2000 9:36 AM
To: Denise Vandiver
Cc: Bob Freeman; Sylvia Pelt; Marguerite Lockard
Subject: RE: FPUC audit - 000814-EI

Okay. I did reference both numbers in the docket title and description of the confidential filing. I'll wait to hear the results of your meeting, and amend the title etc. if necessary.

Thanks.

-----Original Message-----

From: Denise Vandiver
Sent: Wednesday, July 05, 2000 9:19 AM
To: Kay Flynn
Cc: Bob Freeman; Sylvia Pelt
Subject: RE: FPUC audit

No, I'm not sure what is going on, but maybe Bob will have time this week to straighten it out. The audits were performed at the same time, maybe the company thinks we put the confidential papers in both audits. This may require a meeting with Floyd, we will let you know, thanks

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Sent: Wednesday, July 05, 2000 7:34 AM
To: Denise Vandiver
Cc: Bob Freeman; Sylvia Pelt
Subject: RE: FPUC audit

Correction! I found conf. material under 00-054-4-2 (07438-00) but not under 00-054-4-1.

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Sent: Wednesday, July 05, 2000 7:23 AM
To: Denise Vandiver
Cc: Bob Freeman; Sylvia Pelt
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Kay Flynn
Division of Records and Reporting
Florida Public Service Commission
(850) 413-6744
kflynn@psc.state.fl.us

Case Assignment and Scheduling Record

Section 1 - Division of Records and Reports (RAR) Completes

Docket No. 000814-EI Date Docketed: 07/03/2000 Title: Request for confidentiality of documents and information provided to Florida Public Service Commission in connection with audit of 1999 earnings (Audit Control No. 00-054-4-2), by Florida Public Utilities Company.

Company: Florida Public Utilities Company

Official Filing Date: _____
 Last Day to Suspend: _____ Expiration: _____

Referred to: _____ ADM AFA APP CAF CMP CMU EAG ECR GCL LEG PAI RAR (RGO) SER WAW
 ("()") indicates OPR _____ X _____ _____ _____ _____ X X _____

Section 2 - OPR Completes and returns to RAR in 10 workdays. Time Schedule

Program/Module A17

Staff Assignments

OPR Staff B Freeman, D Vandiver

Staff Counsel M Brown

OCRs ()

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**WARNING: THIS SCHEDULE IS AN INTERNAL PLANNING DOCUMENT.
 IT IS TENTATIVE AND SUBJECT TO REVISION.
 FOR UPDATES CONTACT THE RECORDS SECTION: (850) 413-6770**

Current CASR revision level	Due Dates	
	Previous	Current
1		
1. Recommendation to Appeals	SAME	08/19/2000
2. Order on Confidentiality	09/27/2000	11/20/2000
3. Close Docket or Revise CASR	10/27/2000	12/20/2000
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Recommended assignments for hearing and/or deciding this case:

Full Commission X Commission Panel _____
 Hearing Examiner _____ Staff _____

Date filed with RAR: 10/16/2000

Initials: OPR _____
 Staff Counsel _____

Section 3 - Chairman Completes

Assignments are as follows:

- Hearing Officer(s)

Commissioners						Hrg. Exam.	Staff
ALL	DS	JC	JB	BZ	XX		
X							

- Prehearing Officer

Commissioners					ADM
DS	JC	JB	BZ	XX	
			X		

Where panels are assigned the senior Commissioner is Panel Chairman; the identical panel decides the case.
 Where one Commissioner, a Hearing Examiner or a Staff Member is assigned the full Commission decides the case.

Approved: AD/Sm
 Date: 10/23/2000

Case Assignment and Scheduling Record

Section 1 - Division of Records and Reporting (RAR) Completes

Docket No. 000814-EI Date Docketed: 07/03/2000 Title: Request for confidentiality of documents and information provided to Florida Public Service Commission in connection with audit of 1999 earnings (Audit Control No. 00-054-4-2), by Florida Public Utilities Company

Company: Florida Public Utilities Company

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Section 2 - OPR Completes and returns to RAR in 10 workdays.

Time Schedule

Program/Module A17

Staff Assignments

OPR Staff B Freeman, D Vandiver

Staff Counsel M Brown

OCRs () _____

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 FOR UPDATES CONTACT THE RECORDS SECTION: (850) 413-6770
 Current CASR revision level**

2

Due Dates

Previous Current

1. Order on Confidentiality	11/20/2000	01/05/2001
2. Close Docket or Revise CASR	12/20/2000	02/02/2001
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Recommended assignments for hearing and/or deciding this case:
 Full Commission X Commission Panel _____
 Hearing Examiner _____ Staff _____
 Date filed with RAR: 11/22/2000
 Initials: OPR _____
 Staff Counsel _____

Section 3 - Chairman Completes

Assignments are as follows:

- Hearing Officer(s)

Commissioners						Hrg. Exam.	Staff
ALL	DS	JC	JB	BZ	XX		
X							

- Prehearing Officer

Commissioners					ADM
DS	JC	JB	BZ	XX	
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Where panels are assigned the senior Commissioner is Panel Chairman; the identical panel decides the case.
 Where one Commissioner, a Hearing Examiner or a Staff Member is assigned the full Commission decides the case.

Approved: JD/SM
 Date: 12/08/2000

Case Assignment and Scheduling Record

Section 1 - Division of Records and Rep (RAR) Completes

Docket No. 000814-EI Date Docketed: 07/03/2000 Title: Request for confidentiality of documents and information provided to Florida Public Service Commission in connection with audit of 1999 earnings (Audit Control No. 00-054-4-2), by Florida Public Utilities Company.
 Company: Florida Public Utilities Company

Official Filing Date: _____
 Last Day to Suspend: _____ Expiration: _____

Referred to: _____
 ("()") indicates OPR) _____

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Section 2 - OPR Completes and returns to RAR in 10 workdays. Time Schedule

Program/Module A17
Staff Assignments
 OPR Staff B Freeman, D Vandiver

Staff Counsel M Brown
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 FOR UPDATES CONTACT THE RECORDS SECTION: (850) 413-6770
 Current CASR revision level**

3

	Due Dates	
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1. Order on Confidentiality	01/05/2001	02/16/2001
2. Close Docket or Revise CASR	02/02/2001	03/16/2001
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Recommended assignments for hearing and/or deciding this case:
 Full Commission X Commission Panel _____
 Hearing Examiner _____ Staff _____
 Date filed with RAR: 01/09/2001
 Initials: OPR _____
 Staff Counsel _____

Section 3 - Chairman Completes

Assignments are as follows:

- Hearing Officer(s)

Commissioners						Hrg. Exam.	Staff
ALL	JC	DS	JB	BZ	PL		
X							

- Prehearing Officer

Commissioners					ADM
JC	DS	JB	BZ	PL	

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Approved: [Signature]
 Date: Pending 1-19-01

Case Assignment and Scheduling Record

Section 1 - Division of Records and Report (RAR) Completes

Docket No. 000814-EI Date Docketed: 07/03/2000 Title: Request for confidentiality of documents and information provided to Florida Public Service Commission in connection with audit of 1999 earnings (Audit Control No. 00-054-4-2), by Florida Public Utilities Company

Official Filing Date: _____
 Last Day to Suspend: _____ Expiration: _____

Referred to: ADM AFA APP CAF CMP CMU EAG ECR GCL LEG PAI RAR (RGO) SER WAW
 ("(") indicates OPR) _____ X _____ _____ _____ _____ _____ X X _____

Section 2 - OPR Completes and returns to RAR in 10 workdays. Time Schedule

Program/Module A17

Staff Assignments

OPR Staff B Freeman, D Vandiver

Staff Counsel M Brown

OCRs () _____

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Recommended assignments for hearing and/or deciding this case:

Full Commission X Commission Panel _____
 Hearing Examiner _____ Staff _____

Date filed with RAR: 03/01/2001

Initials: OPR _____
 Staff Counsel _____

WARNING: THIS SCHEDULE IS AN INTERNAL PLANNING DOCUMENT. IT IS TENTATIVE AND SUBJECT TO REVISION. FOR UPDATES CONTACT THE RECORDS SECTION: (850) 413-6770
 Current CASR revision level

5

	Due Dates	
	Previous	Current
1. Order on Confidentiality	03/05/2001	04/16/2001
2. Close Docket or Revise CASR	04/05/2001	05/16/2001
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ALL	JC	DS	JB	BZ	PL		
X							

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Commissioners					ADM
JC	DS	JB	BZ	PL	
			X		

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Approved: *Liam*
 Date: Pending 3/22/01

C

Case Assignment and Scheduling Record

Section 1 - Division of Records and Reporting (AR) Completes

Docket No. 000814-EI Date Docketed: 07/03/2000 Title: Request for confidentiality of documents and information provided to Florida Public Service Commission in connection with audit of 1999 earnings (Audit Control No. 00-054-4-2), by Florida Public Utilities Company.

Company: Florida Public Utilities Company

Official Filing Date: _____
 Last Day to Suspend: _____ Expiration: _____

Referred to: _____ ADM AFA APP CAF CMP CMU EAG ECR GCL LEG PAI RAR (RGO) SER WAW
 ("()" indicates OPR) _____ X _____ _____ _____ _____ _____ _____ X X _____

Section 2 - OPR Completes and returns to RAR in 10 workdays. Time Schedule

Program/Module A17

Staff Assignments

OPR Staff B Freeman, D Vandiver

Staff Counsel M Brown

OCRs () _____

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 FOR UPDATES CONTACT THE RECORDS SECTION: (850) 413-6770
 Current CASR revision level**

6

	<u>Due Dates</u>	
	Previous	Current
1. Order on Confidentiality	04/16/2001	05/16/2001
2. Close Docket or Revise CASR	05/16/2001	06/18/2001
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Recommended assignments for hearing and/or deciding this case:

Full Commission X Commission Panel _____
 Hearing Examiner _____ Staff _____

Date filed with RAR: 04/16/2001

Initials: OPR _____
 Staff Counsel _____

Section 3 - Chairman Completes

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Commissioners						Hrg. Exam.	Staff
ALL	JC	DS	JB	BZ	PL		
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Approved: [Signature]
 Date: Pending 4/19/01



STATE OF FLORIDA

Commissioners:

J. TERRY DEASON, CHAIRMAN
SUSAN F. CLARK
E. LEON JACOBS, JR.
LILA A. JABER



DIVISION OF RECORDS & REPORTING
BLANCA S. BAYÓ
DIRECTOR
(850) 413-6770

Public Service Commission

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

DATE: July 3, 2000

TO: _____ DIVISION OF APPEALS
_____ DIVISION OF COMPETITIVE SERVICES
_____ DIVISION OF ECONOMIC REGULATION
_____ DIVISION OF LEGAL SERVICES
_____ DIVISION OF POLICY ANALYSIS & INTERAGENCY LIAISON
 DIVISION OF REGULATORY OVERSIGHT
_____ DIVISION OF SAFETY & ELECTRIC RELIABILITY

FROM: DIVISION OF RECORDS AND REPORTING (Lockard)

RE: CONFIDENTIALITY OF CERTAIN INFORMATION

DOCUMENT NO: 08120-00 (x-ref 07438-00)

DESCRIPTION: Documents and information provided to staff in connection with
audit of 1999 earnings (Audit Control Nos. ~~00-054-4-1~~ and 00-054-4-2)

SOURCE: Florida Public Utilities Company

DOCKET NO: 000814-EI

The above material was received with a request for confidentiality (attached). Please prepare a recommendation for the attorney assigned to the case by completing the section below and forwarding a copy of this memorandum, together with a brief memorandum supporting your recommendation, to the attorney. Copies of your recommendation should also be provided to the Division of Records and Reporting and to the Division of Appeals.

Please read each of the following and check if applicable.

_____ The document(s) is (are), in fact, what the utility asserts it (them) to be.

_____ The utility has provided enough details to perform a reasoned analysis of its request.

_____ The material has been received incident to an inquiry.

_____ The material is confidential business information because

DOCUMENT NO.
17096-01

STATE OF FLORIDA

Commissioners:
J. TERRY DEASON, CHAIRMAN
SUSAN F. CLARK
E. LEON JACOBS, JR.
LILA A. JABER



DIVISION OF RECORDS & REPORTING
BLANCA S. BAYÓ
DIRECTOR
(850) 413-6770

Public Service Commission

July 6, 2000

Floyd R. Self, Esquire
Messer Law Offices
Post Office Box 1876
Tallahassee, Florida 32302-1876

Re: Docket No. 000814-EI

Dear Mr. Self:

This will acknowledge receipt of a request for confidentiality of documents and information provided to Florida Public Service Commission in connection with audit of 1999 earnings (Audit Control No. 00-054-4-2), by Florida Public Utilities Company, which was filed in this office on July 3, 2000 and assigned the above-referenced docket number. Appropriate staff members will be advised.

Mediation may be available to resolve any dispute in this docket. If mediation is conducted, it does not affect a substantially interested person's right to an administrative hearing. For more information, contact the Office of General Counsel at (850) 413-6248 or FAX (850) 413-7180.

Division of Records and Reporting
Florida Public Service Commission

Kay Flynn

To: Denise Vandiver
Cc: Bob Freeman; Sylvia Pelt; Marguerite Lockard
Subject: RE: FPUC audit - 000814-EI

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To: Kay Flynn
Cc: Bob Freeman; Sylvia Pelt
Subject: RE: FPUC audit

7/5/00:
Advised by Bob Freeman
that number to be ref'd
is 4-2. Deleted 4-1 from
title & doc. description. 14

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Kay Flynn
Division of Records and Reporting
Florida Public Service Commission
(850) 413-6744
kflynn@psc.state.fl.us

RAR Official Filing:

4/30/01***** 12:05 PM*****Linda Williams*****1

Linda Williams

1038 - CFU

From: Mary Diskerud
Sent: Monday, April 30, 2001 12:05 PM
To: RAR - Orders-Notices

S

or000814 has been copied back to GCorders.

RECEIVED-FPSC
01 APR 30 PM12:17
RECORDS AND
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