

BEFORE THE PUBLIC SERVICE COMMISSION

In re: Fuel and purchased power cost recovery clause with generating performance incentive factor. | DOCKET NO. 040001-EI  
 | ORDER NO. PSC-04-0812-CFO-EI  
 | ISSUED: August 19, 2004

ORDER GRANTING CONFIDENTIAL CLASSIFICATION OF CERTAIN PORTIONS OF  
 STAFF'S AUDIT REPORT AND WORKING PAPERS IN AUDIT NO. 04-023-4-1,  
 "FLORIDA POWER & LIGHT COMPANY FUEL COST RECOVERY CLAUSE AUDIT FOR  
 THE YEAR ENDED DECEMBER 31, 2003"  
 (DOCUMENT NOS. 04354-04, 04355-04, AND 04646-04)

Florida Power & Light Company (FPL) requests confidential classification of certain portions of staff's audit report and working papers in Audit No. 04-023-4-1 (FPL Fuel Cost Recovery Clause Audit for the Year ended December 31, 2003). FPL makes this request pursuant to Section 366.093, Florida Statutes, and Rule 25-22.006, Florida Administrative Code. This request for confidential classification was filed on April 19, 2004, and modified on August 9, 2004. The information for which FPL seeks confidential treatment is filed with the Commission as Document Nos. 04354-04, 04355-04, and 04646-04.

FPL requests that the following work papers be granted confidential classification:

Staff Work Paper Number	Page(s)	Line(s)	Type of Information Classified Confidential
1	4	22-23	Sensitive contractual information
	6	5-6,12	Sensitive contractual information
43-3/1-1/1	1	47,49-51	Sensitive contractual information
43-3/1-1/1-1	1	Col B, 24,26-31; Col C, 28-31; Col D, 5-20	Sensitive contractual information
43-3/1-1/1-1/1	1	8-39,42-52,58-61, 64-65	Sensitive contractual information
43-3/1-1/1-1/1-1	1	Col C, 8-10, 12-14,16-17, 19-20,23-24, 27-28,30-31, 33-34,36-37	Sensitive contractual and competitive business information

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Staff Work Paper Number	Page(s)	Line(s)	Type of Information Classified Confidential
43-3/1-1/1-1/1-2	1	6;  Col A,C, 7-39;  Col F,G,H, 7-40;  Col J,K, 7-39	Sensitive contractual information
43-4/1	3	Cols B,C,D, 16	Sensitive contractual information
43-4/1	6	Cols, B,C,D, 36	Sensitive contractual information
43-4/1	8	Cols B,C,D, 48	Sensitive contractual information
43-4/1-1	1	21-22	Sensitive contractual information
43-4/1-1/1	1	51,53-55	Sensitive contractual information
43-4/1-1/1-2	1	Col B, 23,25-30;  Col C, 27-30;  Col D, 5-19	Sensitive contractual information
43-4/1-1/1-1/1-2/1	1	Cols, A-E, 4-19;  21-26	Sensitive contractual and competitive business information
47-2/2-1	1	58,60-62	Sensitive contractual information
47-2/2-1/1	1	Col B, 18,20-25;  Col C, 22-25;  Col D, 2-16;  Col E, 22-25	Sensitive contractual information
48	1	Col B, 12-14	Sensitive competitive business information
48-1	1	Cols A-B, 26;  Col C, 8-10, 12,17,19	Sensitive competitive business information
48-1/1	1	Col A, 9-14	Sensitive competitive business information

Staff Work Paper Number	Page(s)	Line(s)	Type of Information Classified Confidential
48-1/2	1	Cols A-B, 4-7; Col C, 4-7,9-12; Col D, 4-7; Col E. 4-5	Sensitive competitive business information
48-2	1	Col A, 18-19, 22-23; Col B, 17,20-21, 24-26;	Sensitive contractual and competitive business information
48-2/1	1	All	Sensitive contractual and competitive business information
52	3	23-24	Sensitive contractual and competitive business information
52	5	5-6,12	Sensitive contractual and competitive business information
52-1	2	Col A, 4,9-11; Col B, 1-3	Sensitive contractual and competitive business information
52-1	3	Col C, 12-14; Col D. 12.14.16	Sensitive contractual and competitive business information
52-1	4	Cols A-B, 14-15; Col C, 10; Col D, 10,16	Sensitive contractual and competitive business information
52-1	5	Cols D-G,J, 9-28	Sensitive contractual and competitive business information
52-1	6	2-3,5-7	Sensitive contractual and competitive business information
52-1	7	11-12,18-19, 21-23,25-34	Sensitive contractual and competitive business information
52-1	8	Col B, 19-20, 22-25	Sensitive contractual and competitive business information

Staff Work Paper Number	Page(s)	Line(s)	Type of Information Classified Confidential
52-1	9	Col B, 12-16, 18-19,20-21	Sensitive contractual and competitive business information
52-2	1	Col A, 2; Col B, 3-8;	Sensitive contractual and competitive business information
52-2	2	Col N, 2-18	Sensitive contractual and competitive business information
52-2	3-5	Col B, 10-11	Sensitive contractual and competitive business information
52-3	1	2-4	Sensitive contractual and competitive business information
52-3	2	Col F, 8	Sensitive contractual and competitive business information
52-3	3	Col B, 10-11	Sensitive contractual and competitive business information
52-9	1	Col B, 15-18,31	Sensitive contractual and competitive business information

FPL asserts that portions of staff's working papers contain information pertaining to energy decontamination and decommissioning expenses and sensitive contractual information related to deliveries of nuclear fuel. FPL states that release of sensitive decommissioning and decontamination expense information could harm FPL or the provider of that information. In addition, FPL asserts that release of contractual delivery information pertaining to nuclear fuel could harm FPL or the provider of the information. FPL contends that the information concerns FPL's overall procurement practices and strategies as well as vendor-specific information. FPL further asserts that portions of staff's working papers contain information pertaining to vendor-specific pricing and hedging expenditures.

FPL asserts that, pursuant to Section 366.093, Florida Statutes, such information is entitled to confidential classification and is exempt from the mandatory disclosure provisions of the public records law. FPL asserts that the sensitive contractual and competitive information, if disclosed, 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), Florida Statutes. FPL also asserts that the information for which it seeks confidential classification relates "to competitive interests, the disclosure of which would impair the competitive business of the provider of the information." Section 366.093(3)(e), Florida Statutes.

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CONCLUSION

Upon review, it appears that the information discussed above is proprietary confidential business information and should be granted confidential treatment to avoid harm to the company and its ratepayers. Based on the foregoing, FPL's request for confidential treatment of Document Nos. 04354-04, 04355-04, and 04646-04 is granted.

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.

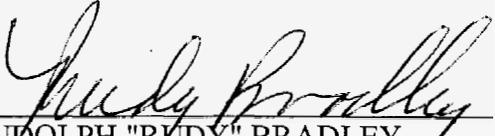
It is therefore

ORDERED by Commissioner Rudolph "Rudy" Bradley, as Prehearing Officer, that the information described in Florida Power and Light Company's request for confidential treatment of certain portions of staff's audit report, Audit No. 04-023-4-1, Document Nos. 04354-04, 04355-04, and 04646-04, is granted confidential classification. It is further

ORDERED that the information described within the body of this Order shall be granted confidential treatment for 18 months from the date of this Order. It is further

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

By ORDER of Commissioner Rudolph "Rudy" Bradley, as Prehearing Officer, this 19<sup>th</sup> day of August, 2004

  
RUDOLPH "RUDY" BRADLEY  
Commissioner and Prehearing Officer

(SEAL)

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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 Director, Division of the Commission Clerk and Administrative Services, 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.