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Public Service Commission

February 4, 2010

Mr. Ilan Kaufer  
Attorney for Florida Power & Light Company  
700 Universe Boulevard -- Law/JB  
Juno Beach, Florida 33408-0420

**Re: Docket No. 090002-EG, August 19, 2009, Request for confidential classification for PSC staff audit working papers prepared during the Energy Conservation Cost Recovery Clause Audit for the Year Ended December 31, 2008, Audit Control Number 09-028-4-1, Documents Numbered 07900-09 and 08665-09**

Dear Mr. Kaufer:

We have reviewed FPL's August 19, 2009, request for confidential classification for certain portions of the staff audit working papers in response to staff's "Florida Power & Light Company's Energy Conservation Cost Recovery Clause Audit for the Year Ended December 31, 2008" and find the following five perceived issues:

Issue 1:

All working papers

According to Section 366.093(3)(f), Florida Statutes (F.S.), employee personnel information related to utility compensation, duties, qualifications, or responsibilities does not appear to be eligible for a confidential classification. The utility has contested this assertion. This request will need to be revised to appropriately identify employee personnel information concerning compensation, duties, qualifications, and responsibilities for which a confidential classification is requested. In the current request, this category of information is not uniformly and consistently identified. Further, the utility should provide additional justification as to why this employee information should be granted a confidential classification for this particular request.

Staff Note -- Please see: Commission Order 25237, dated October 22, 1991, issued in Docket Numbered 900960-TL; and Commission Order PSC-92-0135-CFO-TL, dated February 3, 1994, issued in Dockets Numbered 920260-TL, 910163-TL, 910727-TL, 900960-TL and 911034-TL.  
Further, we note Commission Order PSC-09-0568-CFO-EI, dated August 20, 2009, issued in Docket Numbered 080677-CFO-EI, is on appeal.

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### **Issue 2**

All working papers

As part of the employee information issue, staff found instances within the general contract documents where employee personnel information was identified as sensitive. Typically, contractual documents identify the Utility employees approving contracts or the employees acting as the Utility liaison for the contract. Accordingly, this employee information contained in the contractual documents identifies employee duties and responsibilities, and thus this information should also be identified. Any justification should address why compensation, duties, qualifications and responsibilities of the Utility employees associated with these contracts should be granted a confidential classification.

### **Issue 3**

All working papers

As part of the employee information issue, the Commission has expressed an interest in treating the names of utility employees as a distinguishable category of employee personnel information. As part of a staff audit, definite identification of employee names is a tool used in the audit verification. Thus employee names can be found within detailed staff audit working papers and some employee names are found within the instant documents. Please separately identify and justify the instances when the utility is requesting a confidential classification for the name of a utility employee or officer or director.

### **Issue 4**

All working papers

Further as a specific concern of the staff, the utility has requested that the titles of employees be treated as confidential. However, there is no separate identification and justification for treating employee titles as confidential within the current request. Please separately identify instances when the utility is requesting a confidential classification for employee titles.

### **Issue 5**

Lastly, many names and corresponding titles of utility employees, officers or members of the Utility Board of Directors are public either because of public reporting requirements or because of the public nature of their utility work. It seems as though any utility employee, officer or director who uses FPL business cards or other similar FPL identification in connection with their public duties would cause the employees name and duties or work title to be public. Any justification should address how the utility identifies those employees whose name and title is already public.

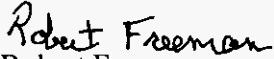
Mr. Ilan Kaufer  
Page 3  
February 4, 2010

**Response to the Perceived Deficiencies**

Within 21 days from the date of this letter, as deemed necessary, the utility may modify its pleading, justification, redacted or highlighted copies within its request with the Commission Clerk; otherwise, a recommendation will be presented to the Prehearing Officer based upon the existing record.

If you have any technical questions concerning this matter, please contact me, Robert Freeman, at telephone (850) 413-6485 or email [bfreeman@psc.state.fl.us](mailto:bfreeman@psc.state.fl.us). If you would like to talk to the staff attorney assigned to this matter, or if you have procedural questions, please contact Katherine Fleming at (850) 413-6128 or email [keflemin@psc.state.fl.us](mailto:keflemin@psc.state.fl.us).

Sincerely,

  
Robert Freeman  
Senior Government Analyst  
Bureau of Auditing

CC: Office of General Counsel (Fleming)  
Office of Commission Clerk (McLean, Cole)