

ORIGINAL



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RECEIVED-FPSC

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August 14, 2001

COMMISSION
CLERK

Writer's Direct Dial:
(561) 691-7101

VIA HAND DELIVERY

Ms. Blanca S. Bayó, Director
Division of the Commission Clerk and
Administrative Services
Florida Public Service Commission
Betty Easley Conference Center
2540 Shumard Oak Boulevard, Room 110
Tallahassee, FL 32399-0850

**Re: Florida Power & Light Company's Request for Confidential Classification of
Certain Material Provided in Connection with the Monthly Fuel Filings
Docket No. 010001-EI**

Dear Ms. Bayó:

I enclose and hand you herewith for filing in the above-referenced matter, the original and five (5) copies of Florida Power & Light Company's ("FPL") Request for Confidential Classification. The original includes Attachments A, B, and C. The five copies include only Attachments B and C.

Attachment A contains the confidential information that is the subject of FPL's Request for Confidential Classification. Attachment A is submitted for filing in a separate, sealed folder or carton marked "ATTACHMENT A - CONFIDENTIAL. Attachment B is an edited version of Attachment A, in which the information FPL asserts is confidential has been blocked out. Attachment C contains FPL's justification for its request for confidential classification.

In accordance with Rule 25-22.006(3)(d), FPL requests confidential treatment of the information in Attachment A pending disposition of FPL's request for Confidential Classification.

Also included herewith is a computer diskette containing FPL's Request for Confidential Classification and Attachment C, in Microsoft Word

Please contact me should you or your Staff have any questions regarding this filing.

Sincerely,

R. Wade Litchfield

Enclosures

cc: Service List (w/out Attachment A)

Doc/423 Fuel Filing/May 2001

an FPL Group company

RECEIVED & FILED

FPSC-BUREAU OF RECORDS

DOCUMENT NUMBER-DATE

09920 AUG 14 01

FPSC-COMMISSION CLERK

**BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION**

In re: Fuel and Purchased Power)	DOCKET NO. 010001-EI
Cost Recovery Clause and Generating)	
Performance Incentive Factor)	FILED: August 14, 2001

REQUEST FOR CONFIDENTIAL CLASSIFICATION

NOW, BEFORE THIS COMMISSION, through undersigned counsel, comes Florida Power & Light Company ("FPL" and, pursuant to section 25-22.006 of the Florida Administrative Code and section 366.093 of the Florida Statutes, hereby requests confidential classification of certain information on Florida Public Service Commission ("FPSC" or "Commission") Form 423-1(a) submitted in Docket No. 010001-EI. In support of its Request, FPL states as follows:

1. Petitioner's principal business address is as follows:

Florida Power & Light Company
P.O. Box 029100
Miami, Florida 33102-9100

Orders, notices, or other pleadings related to this request should be served on:

William G. Walker, III
Vice President
Florida Power & Light Company
215 South Monroe Street, Suite 810
Tallahassee, FL 32301-1859
Tel.: (850) 224-7595
Fax: (850) 224-7197

R. Wade Litchfield
Senior Attorney
Florida Power & Light Company
700 Universe Boulevard
Juno Beach, Florida 33408-0420
Tel.: (561) 691-7101
Fax: (561) 691-7103

2. The following attachments are included herewith and made a part hereof:
 - a. Attachment A is the complete and unedited version of FPL's May 2001 Form 423-1(a) which contains certain information that FPL asserts should be accorded confidential treatment. The information in Attachment A for which FPL seeks confidential classification has been highlighted. Attachment A is submitted separately in a scaled envelope marked "CONFIDENTIAL".
 - b. Attachment B is the edited version of Attachment A. All information that FPL asserts is entitled to confidential treatment has been blocked out in Attachment B.
 - c. Attachment C identifies information for which confidential treatment is sought and, with regard to each item or type of information, contains a brief statement that explains the need for confidentiality and refers to the specific statutory basis or bases for the request.

3. Pursuant to section 366.093, FPL seeks confidential protection for the information highlighted in Attachment A. FPL submits that such information is proprietary confidential business information within the meaning of section 366.093(3). Pursuant to section 366.093, such materials are entitled to confidential treatment and are exempt from the disclosure provisions of the public records law. Thus, once the Commission determines that the information in question is proprietary confidential business information, the Commission is not required to engage in any further analysis or review such as weighing the harm of disclosure against the public interest in access to the information.

4. FPL requests that the Commission make the following findings with respect to the fuel oil information identified as confidential on Attachments A and C:

The fuel oil data identified are contractual data; and FPL's ability to procure fuel oil, terminaling and transportation services, and petroleum inspection services is reasonably likely to be impaired by the disclosure of the information identified because:

- (1) the markets in which FPL, as a buyer, must procure fuel oil, terminaling and transportation services, and fuel inspection services are oligopolistic;
- (2) FPL, as a substantial buyer in an oligopolistic market may obtain price concessions not available to other buyers; and
- (3) the disclosure of such concessions likely would end them, resulting in higher prices to FPL.

5. FPL requests that the information for which FPL seeks confidential classification not be declassified until the dates specified on Attachment C in order to allow FPL a reasonable period of time within which to negotiate future contracts. Disclosure prior to the requested dates for declassification would impair FPL's ability to negotiate future contracts.

6. The statutory bases and support for FPL's assertion of confidentiality with regard to specific items or types of information are set forth in Attachment C. The information for which confidential classification is sought is intended to be and is treated by FPL as confidential and, to the best of FPL's knowledge and belief, has not been publicly disclosed.

7. Upon a finding by the Commission that the material in Attachment A for which FPL seeks confidential treatment is proprietary confidential business information within the meaning of section 366.093(3), pursuant to section 366.093(4) such materials should not be declassified until the end of the protective period set by the Commission.

Further, the materials should be returned to FPL as soon as the information is no longer necessary for the Commission to conduct its business.

CERTIFICATE OF SERVICE

I, THE UNDERSIGNED COUNSEL, HEREBY CERTIFY that a copy of Florida Power & Light Company's Request for Confidential Classification, without Attachment A, has been served via first class mail, postage prepaid to the parties listed below, this 14th day of August, 2001:

Bob Elias, Chief
Bureau of Electric & Gas
Division of Legal Services
Florida Public Service Commission
Gerald L. Gunter Building - Third Floor
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

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Vicki Gordon Kaufman, Esquire
McWhirter, Reeves, McGlothlin,
Davidson, et als.
117 S. Gadsden Street
Tallahassee, FL 32301

G. Edison Holland, Esquire
Beggs & Lane
P.O. Box 12950
Pensacola, FL 32576

Jack Shreve, Esquire
Office of Public Counsel
111 W. Madison Street, Room 812
Tallahassee, FL 32399-1400

Major Gary A. Enders
United States Air Force
HQ USAF/ULT, STOP 21
Tyndall AFB, FL 32403-6001

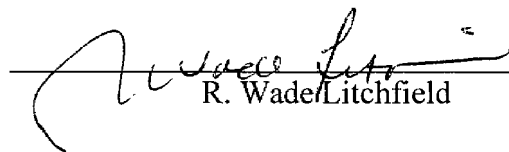
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Lee G. Schmudde, Esquire
Reedy Creek Utilities, Inc.
P.O. Box 40
Lake Buena Vista, FL 32830

Occidental Chemical Corporation
Energy Group
P.O. Box 809050
Dallas, TX 75380-9050

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P.O. Box 14042
St. Petersburg, FL 33733


R. Wade Litchfield

DOCKET NO. 010001-EI

CONFIDENTIAL

ATTACHMENT A

FPSC FORM NO. 423-1(a)

MAY 2001

FILED SEPARATELY

DOCKET NO. 010001-EI

NON-CONFIDENTIAL

ATTACHMENT B

FPSC FORM NO. 423-1(a)
(Redacted)

MAY 2001

FPSC FORM NO. 423-1 (a)

1. REPORTING MONTH: MAY YEAR: 2001

2. REPORTING COMPANY: FLORIDA POWER LIGHT COMPANY

MONTHLY REPORT OF COST AND QUALITY OF FUEL OIL FOR ELECTRIC PLANTS

DETAIL OF INVOICE AND TRANSPORTATION CHARGES

3. NAME, TITLE TELEPHONE NUMBER OF CONTACT PERSON CONCERNING DATA
 SUBMITTED ON THIS FORM: RITA MCLELLAN, REGULATORY AFFAIRS, (305) 552 - 4069

4. SIGNATURE OF OFFICIAL SUBMITTING REPORT: *Carla A. Kame*

5. DATE COMPLETED: 07/17/2001

(A) LINE NO.	(B) PLANT	(C) SUPPLIER	(D) DELIVERY LOCATION	(E) DELIVERY DATE	(F) TYPE OIL	(G) VOLUME (BBLs)	(H) INVOICE PRICE (\$/BBL)	(I) INVOICE AMOUNT (\$)	(J) DISCOUNT (\$)	(K) NET AMOUNT (\$)	(L) NET PRICE (\$/BBL)	(M) QUALITY ADJUST. (\$/BBL)	(N) EFFECTIVE PUR PRICE (\$/BBL)	(O) TRANSP TO TERM (\$/BBL)	(P) ADDITIONAL TRANS CHGS (\$/BBL)	(Q) OTHER CHGS (\$/BBL)	(R) DELIVERED PRICE (\$/BBL)
31	FT. MYERS	COASTAL		05/29/200	FO3	21292											36.7710
32	MARTIN	ROYAL		05/23/200	FO3	707											43.3660
33	MARTIN	ROYAL		05/24/200	FO3	884											42.9900
34	MARTIN	ROYAL		05/25/200	FO3	531											42.9040
35	MARTIN	ROYAL		05/21/200	FO3	707											43.0090
36	MARTIN	ROYAL		05/29/200	FO3	884											42.7150
37	MARTIN	ROYAL		05/30/200	FO3	884											42.7150
38	MARTIN	ROYAL		05/31/200	FO3	1061											42.0150
39	MARTIN	ROYAL		05/09/200	FO3	4255											39.9000
40	MARTIN	ROYAL		05/13/200	FO3	1594											39.9000
41	MARTIN	ROYAL		05/14/200	FO3	532											39.0600
42	MARTIN	ROYAL		05/15/200	FO3	708											42.1480
43	MARTIN	ROYAL		05/16/200	FO3	353											43.0080
44	MARTIN	ROYAL		05/17/200	FO3	884											42.4840
45	MARTIN	ROYAL		05/18/200	FO3	353											42.7560
46	MARTIN	ROYAL		05/22/200	FO3	530											40.3600
47	MARTIN	ROYAL		05/28/200	FO3	530											42.7150
48	PT. EVERGLADES	AMERIGAS		05/17/200	PRO	14	44.5400	624	0	624	44.5400	0.0000	44.5400	0.0000	0.0000	0.0000	44.5400
49	PT. EVERGLADES	AMERIGAS		05/24/200	PRO	8	45.0600	360	0	360	45.0600	0.0000	45.0600	0.0000	0.0000	0.0000	45.0600
50	FT. MYERS	AMERIGAS		05/11/200	PRO	7	50.1500	351	0	351	50.1500	0.0000	50.1500	0.0000	0.0000	0.0000	50.1500
51	RIVIERA	AMERIGAS		05/03/200	PRO	8	46.1400	369	0	369	46.1400	0.0000	46.1400	0.0000	0.0000	0.0000	46.1400
52	RIVIERA	AMERIGAS		05/09/200	PRO	2	45.9400	92	0	92	45.9400	0.0000	45.9400	0.0000	0.0000	0.0000	45.9400
53	RIVIERA	AMERIGAS		05/24/200	PRO	7	45.5300	319	0	319	45.5300	0.0000	45.5300	0.0000	0.0000	0.0000	45.5300
54	RIVIERA	AMERIGAS		05/31/200	PRO	4	45.1700	181	0	181	45.1700	0.0000	45.1700	0.0000	0.0000	0.0000	45.1700
55	MARTIN	INDIANTOWN		05/09/200	PRO	13	39.4800	513	0	513	39.4800	0.0000	39.4800	0.0000	0.0000	0.0000	39.4800
56	MANATEE	SUBURBAN		05/04/200	PRO	13	45.9400	597	0	597	45.9400	0.0000	45.9400	0.0000	0.0000	0.0000	45.9400
57	CAPE CANAVERAL	SUBURBAN		05/07/200	PRO	5	46.1000	231	0	231	46.1000	0.0000	46.1000	0.0000	0.0000	0.0000	46.1000
58	SANFORD	SUBURBAN		05/07/200	PRO	8	15.9800	128	0	128	15.9800	0.0000	15.9800	0.0000	0.0000	0.0000	15.9800
59	SANFORD	SUBURBAN		05/29/200	PRO	8	47.7700	382	0	382	47.7700	0.0000	47.7700	0.0000	0.0000	0.0000	47.7700

ATTACHMENT C

Docket No. 010001-EI
May 2001

Justification for Confidentiality for May, 2001 Report:

<u>FORM</u>	<u>LINE(S)</u>	<u>COLUMN</u>	<u>RATIONALE</u>
423-1(a)	1 - 47	H	(1)
423-1(a)	1 - 47	I	(2)
423-1(a)	1 - 47	J	(2), (3)
423-1(a)	1 - 47	K	(2)
423-1(a)	1 - 47	L	(2)
423-1(a)	1 - 47	M	(2), (4)
423-1(a)	1 - 47	N	(2), (5)
423-1(a)	1 - 47	P	(6), (7), (8)
423-1(a)	1 - 47	Q	(6), (7), (8)

Rationale for confidentiality:

- (1) This information is contractual information which, if made public, "would impair the efforts of [FPL] to contract for goods or services on favorable terms." Section 366.093(3)(d), Fla. Stat. (1995). The information delineates the price per barrel FPL has paid for fuel oil for specific shipments from specific suppliers. This information would allow suppliers to compare an individual supplier's price with the market quote for that date of delivery and thereby determine the contract pricing formula between FPL and that supplier.

Contract pricing formulas generally contain two components, which are: (1) a markup in the market quoted price for that day; and (2) a transportation charge for delivery at an FPL chosen port of delivery. Discounts and quality adjustment components of fuel price contract formulas are discussed in paragraphs 3 and 4. Disclosure of the invoice price would allow suppliers to determine the contract price formula of their competitors. The knowledge of

others' prices (*i.e.*, contract formulas) among fuel oil suppliers is reasonably likely to cause the suppliers to converge on a target price, or to follow a price leader, effectively eliminating any opportunity for a major buyer like FPL to obtain price concessions from any one supplier. The end result is reasonably likely to be increased fuel oil prices and therefore increased electric rates.

- (2) The contract data found in Columns I through N are an algebraic function of Column H. That is, the publication of these Columns together, or independently, could allow a supplier to derive the invoice price of oil.
- (3) Some FPL fuel contracts provide for an early payment incentive in the form of a discount from the invoice price. The existence and amount of such discount is confidential for the reasons stated in paragraph (1) relative to price concessions.
- (4) For fuel that does not meet contract requirements, FPL may reject the shipment, or accept the shipment and apply a quality adjustment. This is, in effect, a pricing term which is as important as the price itself and is therefore confidential for the reasons stated in paragraph (1) relative to price concessions.
- (5) Column N is as important as H from a confidentiality standpoint because of the relatively few times that there are quality or discount adjustments. That is, Column N will equal Column H most of the time. Consequently, Column N needs to be protected for the same reasons as set forth in paragraph (1).
- (6) Column R is used to mask the delivered price of fuel such that the invoice or effective price of fuel cannot be determined. Columns P and Q are algebraic variables of Column R. Consequently, disclosure of Columns P and Q would allow a supplier to calculate the invoice or effective purchase price of oil (Columns H and N) by subtracting these columnar variables from Column R.
- (7) Terminating and transportation services in Florida tend to have the same, if not more severe, oligopolistic attributes of fuel oil suppliers. In 1987, FPL was only able to find eight qualified parties with an interest in bidding either or both of these services. Of these, four responded with transportation proposals and six with terminating proposals. Due to the small demand in Florida for both of these services, market entry is difficult. Consequently, disclosure of these contract data is reasonably likely to result in increased prices for terminating and transportation services.

Petroleum inspection services also have the market characteristics of an oligopoly. Due to the limited number of fuel terminal operations, there are correspondingly few requirements for fuel inspection services. In FPL's last bidding process for petroleum inspection services, only six qualified bidders were found for FPL's bid solicitations. Consequently, disclosure of these contract data is reasonably likely to result in increased prices for petroleum inspection services.

- (8) This information is contractual information which, if made public, "would impair the efforts of (FPL) to contract for goods or services on favorable terms." Section 366.093(3)(d), F.S. (1995). The information delineates the price FPL has paid for No. 2 fuel oil per barrel for specific shipments from specific suppliers. No. 2 fuel oil is purchased through a bidding process. At the request of the No. 2 fuel oil suppliers, FPL has agreed to not publicly disclose any supplier's bid. This nondisclosure agreement protects both FPL's ratepayers and the bidding suppliers. As to FPL's ratepayers, the non-public bidding procedure provides FPL with a greater variation in the range of bids that would otherwise not be available if the bids, or the winning bid by itself, were publicly disclosed. With public disclosure of the No. 2 fuel oil prices found on FPL's Form 423-1(a), the bids would narrow to a closer range around the last winning bid, eliminating the possibility that one supplier might, based on his economic situation, come in substantially lower than the other suppliers. Nondisclosure likewise protects the supplies from divulging any economic advantage that supplier may have which the others have not discovered.

Date of Declassification:

FORM	<u>LINE(S)</u>	<u>COLUMN</u>	<u>DATE</u>
423-1(a)	1-4	H - N, P & Q	06/30/02
423-1(a)	5-9	H - N, P & Q	02/28/02
423-1(a)	10	H - N, P & Q	08/31/02
423-1(a)	11-47	H - N, P & Q	11/30/01

Rationale:

FPL requests that the confidential information identified above not be disclosed until the identified date of declassification. The date of declassification is determined by adding six months to the last day of the contract period under which the goods or services identified on Form 423-1(a) or 423-1(b) were purchased.

Disclosure of pricing information during the contract period or prior to the negotiation of a new contract is reasonably likely to impair FPL's ability to negotiate future contracts as described above.

FPL typically renegotiates its No. 6 fuel oil contracts and fuel-related services contracts prior to the end of such contracts. However, on occasion, some contracts are not renegotiated until after the end of the current contract period. In those instances, the contracts are typically renegotiated within six

WHEREFORE, for the above and foregoing reasons, including those set forth in the supporting materials included herewith, Florida Power & Light Company respectfully requests that its Request for Confidential Classification be granted.

Respectfully submitted,



R. WADE LITCHELFD

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