



ORIGINAL

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COMMISSION  
CLERK

May 7, 2004

**VIA HAND DELIVERY**

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

**Re: CONFIDENTIAL DOCUMENT FILING**

In re: Petition to Determine Need for Turkey Point Unit 5 Power Plant by Florida  
Power & Light Company - Docket No. 040206-EI

Dear Ms. Bayo:

Enclosed for filing on behalf of Florida Power & Light Company ("FPL") are the original and seven (7) copies of a Request for Confidential Classification of Information provided in response to Staff's First Set of Interrogatories Nos. 1-38. Exhibit A to this Request is an envelope marked "CONFIDENTIAL." Only the original Request includes Exhibit A. The six copies of this Request include Exhibits B, C, and D.

Exhibit A is a copy of the confidential information that is the subject of FPL's Request for Confidential Classification on which all of the information FPL asserts is confidential is highlighted. Exhibit B is a revised Exhibit A, in which the information FPL asserts is confidential has been redacted. Exhibit C is FPL's justification table for its request for confidential classification. Exhibit D is an Affidavit of Gerard J. Yupp in support of FPL's Request for Confidential Classification.

FPL requests that the Commission make available for return to FPL the confidential data included in the envelope marked "CONFIDENTIAL" filed with FPL's April 16, 2004, Notice of Intent. Exhibit A to this Request is a duplicate of such confidential information, but with the lines on the page sequentially numbered to correspond with the justification table that is Exhibit C.

- CMP
- COM
- CTR
- ECR
- GCL
- OPC
- MMS
- RCA
- SCR
- SEC
- OTH

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*on*

FPSC-BUREAU OF RECORDS

DOCUMENT NUMBER - DATE

05370 MAY-7-04

FPSC-COMMISSION CLERK

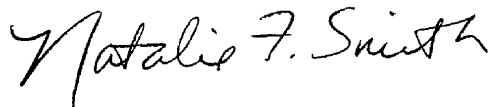
*1 conf records*  
an FPL Group company

Ms. Blanca S. Bayó, Director  
Division of the Commission Clerk and  
Administrative Services  
Florida Public Service Commission  
May 7, 2004  
Page 2

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 is a computer diskette containing FPL's Request for Confidential Classification and Attachment C, in Word. Please contact me should you or your Staff have any questions regarding this filing.

Sincerely,

A handwritten signature in black ink that reads "Natalie F. Smith". The signature is written in a cursive style with a large initial "N".

Natalie F. Smith

NFS:ec  
Enclosures  
cc: Parties of Record w/enclosures

**BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

In re: Petition to Determine Need for	)	Docket No. 040206-EI
Turkey Point Unit 5 Power Plant	)	
By Florida Power & Light Company	)	
	)	Dated: May 7, 2004

**FLORIDA POWER & LIGHT COMPANY'S REQUEST  
FOR CONFIDENTIAL CLASSIFICATION FOR CERTAIN  
INFORMATION PROVIDED IN RESPONSE TO INTERROGATORY NO. 23 OF THE  
FLORIDA PUBLIC SERVICE COMMISSION'S FIRST SET OF INTERROGATORIES**

Pursuant to Section 366.093,<sup>1</sup> and Rule 25-22.006,<sup>2</sup> Florida Power & Light Company ("FPL") requests confidential classification of certain confidential information provided in response to Interrogatory No. 23 of the Florida Public Service Commission (the "PSC" or the "Commission") Staff's ("Staff's") First Set of Interrogatories, which were served on FPL via U.S. Mail on March 22, 2004. FPL further requests that, if the confidential information contained in its response to Interrogatory No. 23 is admitted into the record in this proceeding, that the Commission determine that FPL has shown good cause to maintain confidential classification for the confidential information in its response to such interrogatory, for a period of thirty-six months. In support of its request, FPL states:

**Justification for Confidential Classification**

1. The Confidential Information is contained in documents provided to the Commission in connection with its response to Staff's First Set of Interrogatories to FPL,

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<sup>1</sup> All references to "Section" or "§" are to the latest version of the Florida Statutes unless indicated otherwise.

<sup>2</sup> All references to "Rule" are to the latest version of the Florida Administrative Code unless indicated otherwise.

Interrogatory No. 23, in the above-referenced docket. FPL filed its Notice of Intent to Request Confidential Classification with respect to such information on April 16, 2004. Pursuant to Rule 25-22.006(3)(a), FPL is given 21 days from the date of that Notice of Intent, or until May 7, 2004, to file a formal Request for Confidential Classification with respect to its response to Staff's Interrogatory No. 23. By this pleading, FPL makes such request and asks the Commission to maintain continued confidential handling of the subject confidential material.

2. To satisfy the requirements of Rule 25-17.006, FPL attaches as Exhibit A to this request an envelope marked "CONFIDENTIAL" that contains one copy of FPL's response to Staff's First Set of Interrogatories, Interrogatory No. 23, on which all the confidential information is highlighted. Exhibit B, attached to this request, is two copies of FPL's response to Staff's Interrogatory No. 23 with the confidential information redacted. Exhibit C, attached to this request, is a line-by-line justification of the confidential status of the confidential information in FPL's Response to Staff's Interrogatory No. 23. Exhibit D, also attached to this request, is the affidavit of Gerard J. Yupp explaining why the information FPL seeks to prevent from disclosure is proprietary and confidential and why it should not be publicly disclosed. Exhibit A is attached only to the original request. All copies of this request have Exhibits B - D.

3. FPL seeks confidential protection for the information highlighted in Exhibit A. The highlighted information is proprietary confidential business information within the meaning of Section 366.093(3). The information is intended to be, and has been, treated by FPL as confidential.

4. Pursuant to Section 366.093, the information highlighted in Exhibit A is entitled to confidential treatment and is 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.

5. The statutory bases for FPL's assertion of confidentiality with regard to each document or portion thereof are set forth in Exhibit C under the column titled "FLORIDA STATUTE 366.093(3) SUBSECTION." The letters (d) or (e) in that column refer to the subsection(s) of Section 366.093(3) that provide justification for FPL's request. Further support for FPL's Request for Confidential Classification of the referenced material is provided through the affidavit of Gerard J. Yupp, included as Exhibit D to this request.

6. The information FPL asserts is proprietary and confidential business information, described in Exhibits C and D, is comprised of competitively sensitive contractual data included in short-term firm capacity agreements with third-party suppliers, including the cost of capacity payments, the term of the agreements, and the amount of capacity, as well as information about the status of renegotiating such agreements. The disclosure of this sensitive contractual data could impair FPL's ability to contract for short-term power supply on favorable terms in the future, and would impair the competitive interests of FPL and those suppliers. Also, the disclosure of this information would provide other market participants insight into FPL's marketing and trading practices that would allow them to anticipate FPL's marketing and trading decisions and/or impair FPL's ability to negotiate, to the detriment of FPL and its customers. This type of confidential information is protected against disclosure by Section 366.093(3)(d) and (e).

7. FPL negotiated with the counterparties to the short-term firm capacity agreements in an effort to reduce the scope of this request, but it was unsuccessful in reducing the scope of this request.

8. The information for which FPL seeks confidential classification shall continue to be confidential after 18 months. Even after 18 months, this data regarding short-term firm capacity contracts will still be treated by FPL as confidential. The data will continue to be sensitive contractual data the disclosure of which would injure FPL's ability to contract for short-term power supply on favorable terms in the future, as well injuring FPL's and the suppliers' competitive interests even after 18 months. Therefore, FPL requests that the Commission rule, as permitted by Section 366.093, Florida Statutes, that the confidential information highlighted in Exhibit A continue to be classified as confidential for a period of 36 months from the original confidential classification. At present it is not FPL's intent to offer its response to Staff's Interrogatory No. 23 into evidence. If the confidential portion of FPL's response to Staff's Interrogatory No. 23 is not admitted into evidence in this proceeding, FPL asks that the Commission require the return of Appendix A to FPL. However, if this information becomes subject to dispute or the confidential information in FPL's response to Staff's Interrogatory No. 23 is introduced into the record in this proceeding, FPL asks that the Commission determine that FPL has demonstrated good cause for the confidential information to continue to be classified as confidential for thirty-six months from the original classification.

9. Upon a finding by the Commission that the information highlighted in Exhibit A, and referenced in Exhibit C, is proprietary confidential business information, the information should not be declassified for a period of at least 36 months and should be returned to FPL as

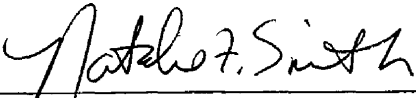
soon as the information is no longer necessary for the Commission to conduct its business. *See* § 366.093(4).

**WHEREFORE**, for the above and foregoing reasons, as more fully set forth in the supporting materials and affidavits included with this request, Florida Power & Light Company respectfully requests that its Request for Confidential Classification be granted.

Respectfully submitted this 7th day of May 2004.

R. Wade Litchfield, Senior Attorney  
Natalie F. Smith, Esq.  
Florida Power & Light Company  
700 Universe Boulevard  
Juno Beach, Florida 33408  
Telephone: 561-691-7101  
Facsimile: 561-591-7135

Charles A. Guyton, Esq.  
Steel Hector & Davis LLP  
Suite 601, 215 S. Monroe St.  
Tallahassee, Florida 32301

By:   
\_\_\_\_\_  
Natalie F. Smith

**CERTIFICATE OF SERVICE**  
**Docket No. 040206-EI**

**I HEREBY CERTIFY** that a true and correct copy of the foregoing Request for Confidential Classification has been served by hand delivery (\*) and U.S. Mail this 7<sup>th</sup> day of May, 2004, to the following:

Jennifer Brubaker, Esq.\*  
Senior Attorney  
Florida Public Service Commission  
Gerald L. Gunter Building  
2540 Shumard Oak Boulevard  
Tallahassee, Florida 32399-0850

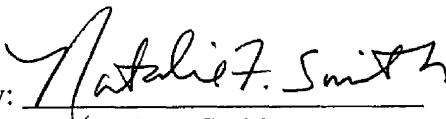
Black & Veatch Corporation (KS)  
Myron Rollins  
11401 Lamar Avenue  
Overland Park, KS 66211

Department of Community Affairs  
Paul Darst  
Strategic Planning  
2555 Shumard Oak Blvd.  
Tallahassee, FL 32399-2100

Department of Environmental Protection  
(Siting)  
Buck Oven  
Siting Coordination Office  
2600 Blairstone Road, MS 48  
Tallahassee, FL 32301

Jon C. Moyle, Jr., Esq.  
Cathy M. Sellers, Esq.  
Moyle Flanigan Katz Raymond &  
Sheehan, P.A.  
The Perkins House  
118 North Gadsden Street  
Tallahassee, FL 32301

Holland & Knight Law Firm  
Bruce May  
P.O. Drawer 810  
Tallahassee, FL 32302-0810

By:   
Natalie F. Smith



**ATTACHMENT "A"**

**CONFIDENTIAL  
FILED UNDER SEPARATE COVER**

**EXHIBIT B**

**REDACTED DOCUMENT**

Q.

Please identify each of FPL's short-term (2004-2006) firm capacity providers. Please describe the nature of these contracts, including cost of capacity payments in \$/kW, and whether FPL attempted to renegotiate extensions with these entities.

A.

As of April 16, 2004, FPL has the following short-term capacity agreements in place for the 2004 through 2006 time period:

1. Provider: DeSoto County Generating Company, L.L.C. – Progress Energy Ventures

- A. Tolling Agreement
- B. FPL provides natural gas and distillate fuel oil
- C. Term: June 1, 2002 through May 31, 2005
- D. Capacity: (2) General Electric (GE) Frame 7F Combustion Turbine Generators
- E. Capacity payment: [REDACTED], allocated monthly based on monthly value factors and seasonal unit capability
- F. Agreement included extension provision
- G. Seller has exercised put option to extend agreement through May 31, 2007 (Capacity payment: [REDACTED], allocated monthly based on monthly value factors and seasonal unit capability)

2. Provider: Oleander Power Project, L.P. – Constellation Energy

- A. Tolling Agreement
- B. FPL provides natural gas and distillate fuel oil
- C. Term: June 1, 2002 through May 31, 2005
- D. Capacity: (1) General Electric (GE) Frame 7F Combustion Turbine Generator
- E. Capacity payment: [REDACTED]
- F. Agreement included extension provision
- G. [REDACTED]

3. Provider: Reliant Energy Services, Inc.

- A. Tolling Agreement
- B. FPL provides natural gas, Reliant provides physical delivery of distillate fuel oil
- C. Term: April 1, 2002 through February 28, 2007
- D. Capacity: (3) General Electric (GE) Frame 7F Combustion Turbine Generators
- E. Capacity payment: [REDACTED], allocated monthly based on based on monthly

weighting factors and unit  
capacity

4. Provider: Florida Power Corporation

- A. [REDACTED]
- B.Term: [REDACTED]
- C.Capacity: [REDACTED]
- D.Capacity payment: [REDACTED]
- E.Energy charge: [REDACTED]

5. Provider: Florida Power Corporation

- A. [REDACTED]
- B.Term: [REDACTED]
- C.Capacity: [REDACTED]
- D.Capacity payment: [REDACTED]
- E. [REDACTED]
- F.Energy charge: [REDACTED]

[REDACTED]

# **EXHIBIT C**

## **JUSTIFICATION MATRIX**

**EXHIBIT C**

**COMPANY:** Florida Power & Light Company  
**TITLE:** List of Confidential Interrogatory Responses  
**DOCKET NO:** Docket No. 040206-EI  
**SUBJECT:** Staff's First Set of Interrogatories (Nos. 1-38)

<b>INTERROGATORY NO.</b>	<b>DESCRIPTION</b>	<b>PAGES</b>	<b>CONF Y/N</b>	<b>LINE NO./ COL. NO</b>	<b>FLORIDA STATUTE 366.093(3) SUBSECTION</b>	<b>AFFIANT</b>
23	FPL's short term firm capacity providers	Page 1 of 2	Y	Lines 13, 17, 24, 25, 27-29, 35	(d), (e)	G. Yupp
23	FPL's short term firm capacity providers	Page 2 of 2	Y	Lines 4-8, 10-22	(d), (e)	G. Yupp

**EXHIBIT D**

**AFFIDAVIT**

**EXHIBIT D**

**BEFORE THE FLORIDA  
PUBLIC SERVICE COMMISSION**

In re: Florida Power & Light Company's )  
Request for Confidential Classification )  
Of responses to Staff's First Set of )  
Interrogatories Nos. 1-38, related to )  
FPL's Petition to Determine Need for )  
Turkey Point Unit 5 Electrical Power Plant )

Docket No: 040206-E1

STATE OF FLORIDA )  
 )  
COUNTY OF PALM BEACH )

AFFIDAVIT OF GERARD J. YUPP

**BEFORE ME**, the undersigned authority, personally appeared Gerard J. Yupp, who, being first duly sworn, deposes and says:

1. My name is Gerard J. Yupp. I am currently employed by Florida Power & Light ("FPL") as Manager of Regulated Wholesale Power Trading in the Energy Marketing and Trading Division. I have personal knowledge of the matters stated in this affidavit.

2. With respect to Exhibit C, I have reviewed the response to Interrogatory No. 23 for which I am listed as Affiant and which is included in Exhibit A to FPL's Request for Confidential Classification of Information provided in response to Staff's First Set of Interrogatories Nos. 1-38. Information that I have reviewed and which is asserted by FPL to be proprietary confidential business information is comprised of competitively sensitive contractual data included in short-term firm capacity agreements with third-party suppliers, including the cost of capacity payments, the term of the agreements, and the amount of capacity, as well as information about the status of renegotiating such agreements, the disclosure of which would impair FPL's ability to contract for short-term power supply on favorable terms. The disclosure of this information would provide other market participants insight into FPL's marketing and trading practices that would allow them to anticipate FPL's marketing and trading decisions and/or impair FPL's ability to negotiate, to the detriment of FPL and its customers. To the best of my knowledge, FPL has maintained the confidentiality of these documents and materials.

3. The information for which FPL seeks confidential classification shall continue to be confidential after 18 months. Even after 18 months, this data regarding short-term firm capacity contracts will still be treated by FPL as confidential. The data will continue to be sensitive contractual data the disclosure of which would injure FPL's ability to contract for short-term power supply on favorable terms in the future, as well injuring FPL's competitive interests even after 18 months. Therefore, the Commission should rule, as permitted by Section 366.093, Florida Statutes, that the confidential information highlighted in Exhibit A continue to be classified as confidential for a period of 36 months from the original confidential classification. In addition, this information should be returned to FPL as soon as the information is no longer necessary for the Commission to



conduct its business so that FPL can maintain the confidentiality of this information.

4. Affiant says nothing further.

Gerard J. Yupp  
Signature of Affiant

Gerard J. Yupp  
Print Name

**SWORN TO AND SUBSCRIBED** before me this 5th day of May, 2004, by Gerard J. Yupp, who is personally known to me or who has produced \_\_\_\_\_ (type of identification) as identification and who did take an oath.

Elizabeth Carrero  
Notary Public, State of Florida

My Commission Expires:



Elizabeth Carrero  
My Commission DD002041  
Expires February 18, 2005