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Natalie F. Smith
Attorney
Florida Power & Light Company
700 Universe Boulevard
Juno Beach, FL 33408-0420
(561) 691-7207
(561) 691-7135 (Facsimile)

RECEIVED-FPSC

MAY 17 PM 1:58

COMMISSION
CLERK

May 17, 2004

VIA HAND DELIVERY

Ms. Blanca S. Bayo, 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: Fuel and Purchased Power Cost Recovery Clause - ~~Docket No. 040001-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 Certain Information provided in FPL's Response to Audit Report (Audit Control No. 04-023-4-1). 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, on 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 with FPL's April 26, 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.

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.

- CMP _____
- COM _____
- CTR _____
- ECR 1
- GCL 1
- OPC _____
- MMS _____
- RCA 1
- SCR _____
- SEC 1
- OTH conf records

an FPL Group company

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FPSC-BUREAU OF RECORDS

DOCUMENT NUMBER-DATE

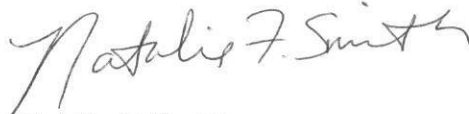
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FPSC-COMMISSION CLERK

Ms. Blanca S. Bayó, Director
Division of the Commission Clerk and
Administrative Services
Florida Public Service Commission
May 17, 2004
Page 2

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 cursive script that reads "Natalie F. Smith". The signature is written in dark ink and is positioned above the printed name.

Natalie F. Smith

NFS:ec

Enclosures

cc: Parties of Record w/enclosures

BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

In re: Fuel and Purchased Power)
Cost Recovery Clause and Generating)
Performance Incentive Factor)
_____)

DOCKET NO. 040001-EI

FILED: May 17, 2004

**REQUEST FOR CONFIDENTIAL
CLASSIFICATION OF CERTAIN INFORMATION PROVIDED
IN FLORIDA POWER & LIGHT COMPANY'S RESPONSE TO AUDIT REPORT
(AUDIT CONTROL NO. 04-023-4-1)**

Pursuant to Section 366.093,¹ and Rule 25-22.006,² Florida Power & Light Company ("FPL") requests confidential classification of certain materials provided to the Florida Public Service Commission ("FPSC" or "Commission") staff ("Staff") in connection with its response (the "Audit Response") to Staff's audit report for Audit Control No. 04-023-4-1, dated April 5, 2004 (the "Audit Report") in Docket No. 040001-EI. In support of its Request, FPL states:

1. Petitioner's name and 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:

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

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

William G. Walker, III
Vice President
Florida Power & Light Company
215 South Monroe Street, Ste. 810
Tallahassee, FL 32301-1859
Telephone: (850) 521-3910
Telecopier: (850) 521-3939

R. Wade Litchfield, Senior Attorney
Natalie F. Smith, Esq.
Florida Power & Light Company
700 Universe Boulevard
Juno Beach, Florida 33408
Telephone: 561-691-7100
Telecopier: 561-691-7135

John T. Butler, Esq.
Steel Hector & Davis, LLP
200 South Biscayne Boulevard
Suite 4000
Miami, Florida 33131-2398

2. The Audit Report contained three disclosures. FPL believed that a response to each of the disclosures was warranted. The Audit Report directed that, if FPL wished to respond, it was to file the response with the Commission Clerk's office. FPL filed its Audit Response on April 26, 2004. At the same time, FPL filed a Notice of Intent to Seek Confidential Classification of certain information in its Audit Response. Pursuant to Rule 25-22.006(3)(a), FPL was given 21 days from the date of that Notice, or until May 17, 2004, to file a formal Request for Confidential Classification with respect to the Audit Response. By this pleading, FPL makes such request.

3. The following exhibits are included with and made a part of this request:

a. Composite Exhibit A consists of one copy of the Audit Response, on which all information that FPL asserts is entitled to confidential treatment has been highlighted. Composite Exhibit A is submitted separately in a sealed folder marked "CONFIDENTIAL."

b. Composite Exhibit B consists of an edited version of Exhibit A on which all information FPL asserts is entitled to confidential treatment has been redacted.

c. Exhibit C is a table containing a line-by-line and page-by-page identification of the information for which confidential treatment is sought, and, with regard to each document or portions thereof, references to the specific statutory basis or bases for the claim of confidentiality and to the affidavits in support of the requested classification.

d. Exhibit D is the affidavit of Gerard J. Yupp in support of this Request.

4. 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.

5. 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.

6. 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)." 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 Gerry Yupp, included as Exhibit D to this request.

7. The information FPL asserts is proprietary and confidential business information, described in Exhibits C and D, includes vendor-specific information and detailed procurement information primarily related to FPL's overall procurement practices and strategies. Certain of the information is designated confidential because it may be associated with other non-confidential data to arrive at a result that is confidential, proprietary business information to FPL and its third-party vendors. The disclosure of this sensitive contractual information could inhibit FPL's ability to contract with vendors on favorable terms in the future, and may impair the competitive interests of those vendors. This type of confidential information is protected against disclosure by Section 366.093(3)(d).

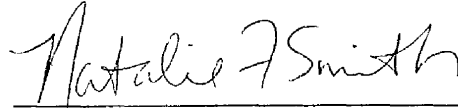
8. In addition, the confidential information includes information related to competitive interests, the disclosure of which would impair FPL's competitive business. This confidential information is protected against disclosure by Section 366.093(3)(e). Certain information related to vendor-specific pricing, and hedging and employee relocation expenditures deserves protection under this category of proprietary business information because this information, if disclosed, could place FPL at a competitive disadvantage.

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 eighteen (18) 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,



JOHN T. BUTLER, ESQ.
Florida Bar No. 283479
Steel Hector & Davis LLP
Attorneys for Florida Power & Light
Company
200 South Biscayne Boulevard
Suite 4000
Miami, Florida 33131-2398
Telephone: (305) 577-2939
Telecopier: (305) 577-7001

R. WADE LITCHFIELD
Florida Authorized House Counsel
NATALIE F. SMITH, ESQ.
Florida Bar No. 0470200
Attorneys for Florida Power & Light Company
700 Universe Boulevard
Juno Beach, FL 33408-0420
Telephone: (561) 691-7101
Telecopier: (561) 691-7135

CERTIFICATE OF SERVICE

I, THE UNDERSIGNED COUNSEL, HEREBY CERTIFY that a copy of Florida Power & Light Company's Request for Confidential Classification of Certain Information Provided in Florida Power & Light Company's Response to Audit Report (Audit Control No. 04-023-4-1) without exhibits has been served via first class mail, postage prepaid to the parties listed below, this 17th day of May, 2004

Wm. Cochran Keating, IV, Esq.
Division of Legal Services
Florida Public Service Commission
2540 Shumard Oak Blvd.
Tallahassee, Florida 32399-0850

Lee L. Willis, Esq.
James D. Beasley, Esq.
Ausley & McMullen
Attorneys for TECO
P.O. Box 391
Tallahassee, Florida 32302

Robert Vandiver, Esq.
Office of Public Counsel
111 West Madison Street
Room 812
Tallahassee, Florida 32399

James A. McGee, Esq.
Florida Power Corporation
P.O. Box 14042
St. Petersburg, Florida 33733

Norman H. Horton, Esq.
Floyd R. Self, Esq.
Messer, Caparello & Self
Attorneys for FPUC
P.O. Box 1876
Tallahassee, Florida 32302-1876

Joseph A. McGlothlin, Esq.
Vicki Gordon Kaufman, Esq.
McWhirter, Reeves, McGlothlin,
Davidson, et al.
Attorneys for FIPUG
117 South Gadsden Street
Tallahassee, Florida 32301

John W. McWhirter, Jr., Esq.
McWhirter, Reeves, McGlothlin,
Davidson, et al.
Attorneys for FIPUG
400 North Tampa Street, Suite 2450
Tampa, Florida 33602

Jeffrey A. Stone, Esq.
Russell A. Badders, Esq.
Beggs & Lane
Attorneys for Gulf Power
P.O. Box 12950
Pensacola, Florida 32591-2950



NATALIE F. SMITH, ESQ.

Exhibit A

CONFIDENTIAL DOCUMENTS

(SUBMITTED SEPARATELY)

Exhibit B

REDACTED DOCUMENTS

1 entire \$250,000 MFR amount for Contractor & Professional Services for Special Projects
2 against the recovery of expanded hedging program consultant fees in 2002.

3 For 2003, FPL did not seek recovery through the Fuel Cost Recovery Clause of
4 incremental hedging costs related to the category of Contractor & Professional Services
5 for Special Projects. Therefore, there were no recoverable costs against which to net
6 any portion of the \$250,000 that had been budgeted in the MFRs.

7 This approach is consistent with the Commission's directions outlined above concerning
8 how to determine recoverable incremental hedging costs. Each category of cost for
9 which FPL requested for recovery was evaluated to determine the portion, if any, that
10 was included in FPL's MFR filing. This amount was then subtracted from the amount
11 sought for recovery through the fuel clause to ensure no double recovery.

12 GENTRADER LICENSE FEES

13 FPL budgeted \$300,000 in its 2002 MFR filing for licensing GenTrader. At that time, the
14 GenTrader license allowed for a fixed number of "seats" (i.e., computers utilizing
15 GenTrader), and the \$300,000 budgeted amount was for seats that would be used by
16 FPL. Prior to its expanded hedging program, FPL used GenTrader as a tool to
17 determine projected daily and next month fuel burns, day-to-day dispatch decisions and
18 fuel allocation, purchased power and power sales cost projections and general fuel
19 procurement activities. GenTrader was not used for the expanded hedging program in
20 2002, and the number of seats allowed under the existing license was adequate to meet
21 FPL's needs. However, when FPL hired a full-time volume forecaster in 2003 for its
22 expanded hedging program, FPL needed additional access to GenTrader. FPL had two
23 options to facilitate this additional access. The first option was for FPL to buy an
24 additional seat under the existing form of the GenTrader license, which would add
25 approximately [REDACTED] to FPL's GenTrader license fee (for a total of [REDACTED]). The
26 second option was for FPL and FPL Energy (which also uses GenTrader) to enter into a
27 site license jointly, in order to have access to unlimited GenTrader seats. The joint site
28 license option would cost [REDACTED]
29 [REDACTED] FPL and FPL Energy chose the second option since
30 it was more cost effective.

1 For 2003, FPL determined the portion of the GenTrader site license fee that is
2 recoverable as an expanded hedging program cost by subtracting the amount of the
3 original GenTrader license fee included in the MFR filing (\$300,000) from its [REDACTED] share
4 of the site license fee (\$327,600), resulting in an incremental expense of \$27,600. For
5 2002, FPL did not seek to recover any portion of the GenTrader license fee as an
6 incremental hedging cost, because (i) it was not yet using GenTrader in support of the
7 expanded hedging program, and (ii) it was still operating under the earlier license and
8 was not incurring incremental costs beyond the \$300,000 budgeted in the MFRs.
9 Therefore, there was nothing in 2002 against which FPL would net any of the \$300,000.

10 This approach is consistent with the Commission's directions outlined above concerning
11 how to determine recoverable incremental hedging costs. Each category of cost that
12 FPL requested for recovery was evaluated to determine the portion, if any, that was
13 included in FPL's MFR filing. This amount was then subtracted from the amount sought
14 for recovery through the fuel clause to ensure no double recovery.

CONFIDENTIAL

1 **Audit Disclosure No. 2**

2 **Subject: GenTrader License Fees in Incremental Hedging**

3 **Statement of Fact:** The company has included \$27,000 in [REDACTED] expenses related to
4 the incremental costs of hedging in the Fuel Filing Schedule A-2 GenTrader software
5 license fees. The total license fees were [REDACTED]
6 [REDACTED] The company then
7 removed \$300,000 for the GenTrader license fees that were included in the MFR base
8 rate calculation. The company did not include the GenTrader costs in the 2002 filing and
9 therefore, did not remove the base costs from the filing.

10 **Opinion:** Staff received answers to requests on these fees late in the audit. Therefore,
11 we will continue to determine whether the license fees are specifically related to hedging
12 programs only and whether the [REDACTED] allocation is reasonable.

13 **FPL's Response to Audit Disclosure No. 2**

14 As described in response to Audit Disclosure No. 1, FPL believes that its determination
15 of the portion of GenTrader license fees that are recoverable through the Fuel Cost
16 Recovery Clause is reasonable and consistent with the Commission's directions on
17 recovery of incremental hedging costs. Nonetheless, FPL remains as always happy to
18 respond to additional questions that the Auditors may have about recovery of the
19 GenTrader license fees.

20 The Opinion in Audit Disclosure No. 2 could be read as suggesting that FPL did not
21 respond timely to the Auditors' requests for information about the GenTrader license
22 fees. That is not the case. FPL provided information on the \$300,000 base level for
23 these fees on February 27, 2004. The auditors then requested additional information on
24 March 24, 2004 (Audit Request Nos. 33 and 34), and FPL responded to those requests
25 two days later, on March 26, 2004.

26 Note: The Statement of Fact in Audit Disclosure No. 2 incorrectly identifies the amount that FPL
27 included for recovery of GenTrader license fees as \$27,000. The correct amount is \$27,600.

CONFIDENTIAL

1 **Audit Disclosure No. 3**

2 **Subject: Relocated Fees in Incremental Hedging**

3 **Statement of Fact:** The company included relocation fees of [REDACTED] and
4 [REDACTED] of 2003. Two employees were hired for the hedging program, one in
5 January and one in February. The company procedure manual allows for \$7,500 to be
6 paid for relocation expenses. The [REDACTED] payment met these requirements. The
7 company has informed us that there are additional provisions in other parts of its policy
8 that were not provided.

9 **Opinion:** Staff cannot determine why the [REDACTED] exceeded the
10 \$7,500 and came at a time when no employees were hired. The company has been
11 asked to provide further documentation and the additional company policy and it will be
12 followed up in the second half of this audit.

13 **FPL's Response to Audit Disclosure No. 3**

14 Florida Power & Light Company's Tier-1, Domestic Relocation Handbook dated 10/1/99
15 is attached. The [REDACTED] and the [REDACTED] are for two separate types of relocation
16 expenses – both of which are reimbursed to employees consistent with the Company
17 procedure.

18 The Company procedure allows for an amount up to one month's salary (with a
19 maximum of \$7,500) to be paid as a "Miscellaneous Relocation Allowance" (see page 6
20 of the attached). The [REDACTED] in relocation expenses that were paid in [REDACTED] 2003 fell
21 into this category.

22 The Company procedure also allows for the reimbursement of "Home Sale Assistance"
23 costs, including closing costs on an "Independent Sale" (see page 7 of attached). There
24 are formulas stated in the Company procedure that determine how much may be
25 reimbursed for various types of costs, but there is no overall dollar-amount cap on this
26 category of reimbursement as there is on the "Miscellaneous Relocation Allowance"
27 category. The [REDACTED] in relocation expenses that were paid in [REDACTED] 2003 were for
28 closing costs that are reimbursable under the "Home Sale Assistance" category.

29 The Opinion in Audit Disclosure No. 2 notes that the [REDACTED] payment did not coincide
30 with a point in time when employees were hired. This is because of the nature of the

Exhibit C

Justification Table

EXHIBIT C

COMPANY: Florida Power & Light Company
TITLE: List of Confidential Workpapers
AUDIT: FPL., Fuel Adjustment Cost Recovery Clause Audit from
January 1 – December 31, 2003
AUDIT CONTROL NO: 04-023-4-1

Workpaper No.	Description	No. of Pages	Conf Y/N	Line No/Col No.	Florida Statute 366.093(3) Subsection	Affiant
1	Report	4	N N N Y	p. 1 p. 2 p. 3 p. 4, lines 25, 28-29 p. 5, line 3 p. 6, lines 3, 5-6, 12 p. 7, lines 3-4, 6, 9, 15, 20, 27, 29	(d)	G. Yupp

Exhibit D

AFFIDAVITS

EXHIBIT D

BEFORE THE

FLORIDA PUBLIC SERVICE COMMISSION

In re: Fuel and Purchased Power)
Cost Recovery Clause and Generating)
Performance Incentive Factor)

DOCKET NO. 040001-EI

FILED: May 17, 2004

STATE OF FLORIDA)
)
COUNTY OF MIAMI-DADE)

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 employed by Florida Power & Light Company (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 documents and information for which I am listed as Affiant and which are included in Exhibit A to FPL's Request for Confidential Classification of Certain Information Provided in Florida Power & Light Company's Response to Audit Report (Audit Control No. 04-023-4-1). Some of the documents or materials asserted by FPL to be proprietary confidential business information, including vendor-specific pricing information and certain hedging-related expenditures, relate to competitive interests, the disclosure of which may impair FPL's competitive business. Some of the data included in Exhibit A contains vendor-specific information and is related to FPL's procurement practices. Disclosure of this information may impair FPL's competitive business interests and its ability to contract on favorable terms and/or would impair the competitive interests of the providers of goods and services. To the best of my knowledge, FPL has maintained the confidentiality of these documents and materials.


3. Affiant says nothing further.

Gerard J. Yupp
Gerard J. Yupp

SWORN TO AND SUBSCRIBED before me this 13th day of May, 2004, by GERARD J. YUPP, who is personally known to me or who has produced _____ (type of identification) as identification.

Debra Ann Dominguez
Notary Public, State of Florida

My Commission Expires: April 20, 2008

 Debra Ann Dominguez
Commission # DD312184
Expires: April 20, 2008
Area Notary 1-800-350-5161