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COMMISSION
CLERK

May 26, 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 an Amended Request for Confidential Classification of Certain Information Provided in Response to Interrogatory No. 23 of the Florida Public Service Commission (the "Commission") Staff's First Set of Interrogatories (the "Amended Request"). Exhibit A to the Amended 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.

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

GCL | FPL requests that the Commission make available for return to FPL the highlighted data
OPC | included in the envelope marked "CONFIDENTIAL" filed with FPL's May 7, 2004, Request,
MMS | and the highlighted data filed with its April 16, 2004, Notice of Intent. This Amended Request
replaces and supersedes the earlier Request.

RCA |
SCR | In accordance with Rule 25-22.006(3)(d), FPL requests confidential treatment of the
SEC | information in Attachment A pending disposition of FPL's Amended Request.

OTH | conf
records on FPL Group company

DOCUMENT NUMBER-DATE

06061 MAY 27 3

FPSC-COMMISSION CLERK

Ms. Blanca S. Bayó, Director
Division of the Commission Clerk and
Administrative Services
Florida Public Service Commission
May 26, 2004
Page 2

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

Sincerely,



NFS 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 26, 2004

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

Pursuant to Section 366.093,¹ and Rule 25-22.006,² Florida Power & Light Company ("FPL") files this Amended Request for Confidential Classification of Certain 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 (the "Amended Request"). 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. Finally, FPL requests that the Commission make available for return to FPL the highlighted documents provided in connection with its May 7, 2004, Request for Confidential Classification, and its April 16, 2004, Notice of Intent to Request Confidential Classification, as this Amended

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.

Request replaces and supercedes the earlier Request. In support of its Amended 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, 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. FPL filed such a formal request on May 7, 2004. FPL files this Amended Request respectfully seeking confidential classification for a more limited amount of information than that for which it requested confidential classification on May 7, 2004.

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 Amended 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. The data consists of the price of capacity payments and energy charges per the terms of such agreements, the disclosure of which would impair FPL's ability to contract for short-term power supply on favorable terms and would impair the competitive interests of FPL and those suppliers. This type of confidential information is protected against disclosure by Section 366.093(3)(d) and (e).

7. The information for which FPL seeks confidential classification shall continue to be confidential after 18 months. Even after 18 months, the price of capacity payments and energy charges per the terms of these 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.

8. 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).

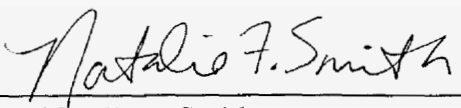
10. FPL requests that the Commission make available for return to FPL the highlighted documents provided in connection with its May 7, 2004, Request for Confidential Classification, as well as the information provided with its April 16, 2004, Notice of Intent, as this Amended Request replaces and supercedes the earlier Request.

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 Amended Request for Confidential Classification be granted.

Respectfully submitted this 26th 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 26th 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

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

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

Office of Public Counsel
Harold McLean/Stephen C. Burgess
111 West Madison Street, Room 812
Tallahassee, FL 32399-1400

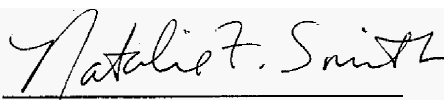
By: 
Natalie F. Smith

EXHIBIT A

**CONFIDENTIAL
FILED UNDER SEPARATE COVER**

EXHIBIT B

24

REDACTED DOCUMENTS

4.

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] allocated monthly based on monthly weighting factors and guaranteed unit capacity
- 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 weighting factors and guaranteed unit capacity)

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. Firm capacity and energy option
- B. Term: April 1, 2001 through December 31, 2004
- C. Capacity: 50 MW
- D. Capacity payment: [REDACTED]
- E. Energy charge: [REDACTED]

5. Provider: Florida Power Corporation

- A. Firm capacity and energy option
- B. Term: June 1, 2004 through September 30, 2004
- C. Capacity: 150 MW
- D. Capacity payment: [REDACTED]
- E. 75 MW will be supplied by FPC's System Base Resources and 75 MW will be supplied by FPC's System Intermediate Resources
- F. Energy charge: [REDACTED]

Aside from FPL's agreements with Progress Energy Ventures and Constellation Energy that included extension provisions, FPL has not entered into formal negotiations with any of these entities with regard to extending the existing agreements. Preliminary inquiries have been made by both FPL and these entities as to the availability and level of interest in either extending or developing new agreements.

EXHIBIT C

6

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)

INTERROGATORY NO.	DESCRIPTION	PAGES	CONF Y/N	LINE NO./ COL. NO	FLORIDA STATUTE 366.093(3) SUBSECTION	AFFIANT
23	Prices for capacity payments and energy charges per FPL's short-term firm capacity agreements with third party suppliers	Page 1 of 2	Y	Lines 13, 17, 24, 28, 35	(d), (e)	G. Yupp
23	Prices for capacity payments and energy charges per FPL's short-term firm capacity agreements with third party suppliers	Page 2 of 2	Y	Lines 7-8, 13, 16-17	(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 Amended 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. The data consists of the price of capacity payments and energy charges per the terms of such agreements, the disclosure of which would impair FPL's ability to contract for short-term power supply on favorable terms. To the best of my knowledge, FPL has maintained the confidentiality of this information.

3. The information for which FPL seeks confidential classification shall continue to be confidential after 18 months. Even after 18 months, this pricing 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 25th day of May, 2004, by Gerard J. Yupp, who is personally known to me or who has produced personally known to me (type of identification) as identification and who did take an oath.

Marie B. Lopez
Notary Public, State of Florida
Marie B. Lopez

My Commission Expires: 7/17/04

