

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Fuel and purchased power )  
cost recovery clause with )  
generating performance incentive )  
factor. )  
\_\_\_\_\_ )

Docket No. 050001-EI  
Filed: September 9, 2005

**FLORIDA POWER AND LIGHT COMPANY'S REQUEST FOR CONFIDENTIAL CLASSIFICATION OF SHORT TERM CAPACITY PAYMENT INFORMATION**

Florida Power & Light Company ("FPL"), pursuant to Rule 25-22.006, F.A.C., and Section 366.093, Florida Statutes, requests confidential classification of certain information on short term capacity payments contained in Schedules E/A12 and E12 of Appendix III sponsored by FPL witness Gerard Yupp (the "Confidential Information"). In support of its Request, FPL states as follows:

1. This Request is intended to request confidential classification of the Confidential Information consistent with Rule 25-22.006.
2. The following exhibits are included with this Request:
  - a. Composite Exhibit A consists of a copy of Schedules E/A12 and E12, in which all of the Confidential Information has been highlighted. Exhibit A is submitted separately in a sealed folder marked "CONFIDENTIAL."
  - b. Composite Exhibit B consists of two copies of Schedules E/A12 and E12 in which all of the Confidential Information has been redacted.

DOCUMENT NUMBER-DATE  
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c. Exhibit C is a table containing an identification of the Confidential Information, together with references to the specific statutory bases for the claim of confidentiality and to the affidavits in support of the requested classification.

d. Exhibit D consists of the affidavit of Gerard Yupp, who is the Director of Wholesale Operations in FPL's Energy Marketing and Trading Division. The affidavit attests to the asserted bases for confidential classification of the Confidential Information.

3. FPL seeks confidential protection for the Confidential Information. That information is confidential because it relates to pricing for short-term capacity purchases, the disclosure of which would impair FPL's ability to contract for capacity on favorable terms, *see* § 366.093(3)(d), Fla. Stat; and because it relates to competitive interests of FPL and of suppliers from whom FPL purchases or has considered purchasing capacity, the disclosure of which would impair their competitive businesses, *see* § 366.093(3)(e), Fla. Stat..

4. FPL submits that the Confidential Information is proprietary confidential business information within the meaning of Section 366.093(3). Pursuant to Section 366.093, such information is entitled to confidential treatment and is exempt from the disclosure provisions of the public records law.

5. The Confidential Information is intended to be and is treated by FPL as private, and its confidentiality has been maintained.

6. Upon a finding by the Commission that the Confidential Information is proprietary confidential business information within the meaning of Section 366.093(3), pursuant to Section 366.093(4) such information should not be declassified for 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.

**WHEREFORE**, FPL respectfully requests that the Confidential Information contained in Schedules E/A12 and E12 be classified as proprietary confidential business information, that the Confidential Information not be declassified for a period of at least eighteen (18) months, and that the Confidential Information be returned to FPL as soon as it is not longer necessary for the Commission to conduct its business.

Respectfully submitted,

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By:   
John T. Butler  
Fla. Bar No. 283479

**CERTIFICATE OF SERVICE**  
**Docket No. 050001-EI**

I certify that a copy of the foregoing Request for Confidential Classification of Short Term Capacity Payment Information was served by hand delivery (\*) or United States mail on this 9th day of September, 2005, to the following persons:

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By: *Karl M. Rubin per JTB*  
John T. Butler

# **Exhibit A**

**CONFIDENTIAL DOCUMENTS**

**(SUBMITTED SEPARATELY)**

**EXHIBIT B**

**REDACTED DOCUMENTS INCLUDED IN  
BOUND TESTIMONY**

**EXHIBIT C**

**COMPANY:** Florida Power & Light Company  
**TITLE:** List of Confidential Exhibits  
**DOCKET NO.:** 050001-EI  
**DOCKET TITLE:** Levelized Fuel Cost Recovery and Capacity Cost Recovery  
**SUBJECT:** Schedules E/A12 (2005 Estimated/Actual) and E12 (2006 Projections) – Short Term Capacity Payments  
**DATE:** September 9, 2005

<b>Page No.</b>	<b>Description</b>	<b>No. of Pages</b>	<b>Conf Y/N</b>	<b>Line No.</b>	<b>Florida Statute 366.093(3) Subsection</b>	<b>Affiant</b>
Appendix III, Page 6	Schedule E/A12	1 of 2	N			
Appendix III, Page 7	Schedule E/A12	2 of 2	Y	Lines 24-28 (Jan-Dec)	(d), (e)	G. Yupp
Appendix III, Page 8	Schedule E12	1 of 2	N			
Appendix III, Page 9	Schedule E12	2 of 2	Y	Lines 24-27 (Jan-Dec)	(d), (e)	G. Yupp



BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Fuel and Purchased Power ) DOCKET NO. 050001-EI
Cost Recovery Clause with Generating )
Performance Incentive Factor ) DATED: September 6, 2005

STATE OF FLORIDA )
) AFFIDAVIT OF GERARD YUPP
PALM BEACH COUNTY )

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

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

2. I have reviewed the document and information for which I am listed as Affiant in Exhibit C and which is included in Exhibit A to FPL's Request for Confidential Classification of Short Term Capacity Payment Information. The document that I have reviewed and that FPL asserts in Exhibit C to be proprietary confidential business information, contains or constitutes supplier-specific information regarding contract prices. Disclosure of this information would impair the competitive interests of FPL and/or the supplier, as well as FPL's ability to contract on favorable terms. To the best of my knowledge, FPL has maintained the confidentiality of this information.

3. Consistent with the provisions of the Florida Administrative Code, such information should remain confidential for a period of eighteen (18) months. In addition, it 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 continue to maintain the confidentiality of these documents.

4. Affiant says nothing further.

Handwritten signature of Gerard Yupp
Gerard Yupp

SWORN TO AND SUBSCRIBED before me this 6th day of September 2005, by Gerard Yupp, who is personally known to me or who has produced passport (type of identification) as identification and who did take an oath.

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

My Commission Expires: 7/17/08

