

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

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

DOCKET NO. 030001-EI
ORDER NO. PSC-03-1281-CFO-EI
ISSUED: November 10, 2003

ORDER GRANTING REQUEST FOR CONFIDENTIAL CLASSIFICATION
(DOCUMENT NO. 03535-03)

On April 17, 2003, pursuant to Section 366.093, Florida Statutes, and Rule 25-22.006, Florida Administrative Code, Florida Power & Light Company (FPL) filed a request for confidential classification of certain information on fuel hedging activities that is contained in Exhibit GJY-1 to the prepared testimony of Gerard Yupp (Fuel Hedging Information) filed in this docket (Document No. 03535-03).

Section 366.093(1), Florida Statutes, provides that "any records received by the commission which are shown and found by the commission to be proprietary confidential business information shall be kept confidential and shall be exempt from [the Public Records Act]." Section 366.093(3), Florida Statutes, defines proprietary confidential business information as information that is intended to be and is treated by the company as private, in that disclosure of the information would cause harm to the company's ratepayers or business operations, and has not been voluntarily disclosed to the public. Section 366.093(3)(a), (d), and (e), Florida Statutes, provides that proprietary confidential business information includes, but is not limited to "[t]rade secrets," "[i]nformation concerning bids or other contractual data, the disclosure of which would impair the efforts of the public utility or its affiliates to contract for goods or services on favorable terms," and "[i]nformation relating to competitive interests, the disclosure of which would impair the competitive business of the provider of the information."

FPL contends that portions of the Fuel Hedging Information fall within these categories and thus constitutes proprietary confidential business information entitled to protection under Section 366.093, Florida Statutes, and Rule 25-22.006, Florida Administrative Code. FPL states that this information is intended

DOCUMENT NUMBER-DATE

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to be and is treated by FPL as private and has not been publicly disclosed.

FPL requests confidential classification for the specific data listed in Attachment A to this order, which is incorporated herein by reference. The justification for FPL's request for confidential classification of this specific data is also set forth in Attachment A. Upon review, I find that this information is confidential for the reasons identified by the company.

Upon review, it appears that certain information in FPL's Exhibit GJY-1 to Gerard Yupp's testimony satisfies the criteria set forth in Section 366.093(3), Florida Statutes, for classification as proprietary confidential business information and, thus, shall be treated as confidential. While it is not clear whether this information constitutes "trade secrets" as that term is used in Section 366.093(3)(a), Florida Statutes, the information constitutes "[i]nformation concerning bids or other contractual data, the disclosure of which would impair the efforts of the public utility or its affiliates to contract for goods or services on favorable terms" and "[i]nformation relating to competitive interests, the disclosure of which would impair the competitive business of the provider of the information." Thus, this information is granted confidential classification.

Pursuant to Section 366.093(4), Florida Statutes, the information for which confidential classification is granted herein shall remain protected from disclosure for a period of 18 months from the date of issuance of this order. At the conclusion of the 18 month period, the confidential information will no longer be exempt from Section 119.07(1), Florida Statutes, unless FPL or another affected person shows, and the Commission finds, that the records continue to contain proprietary confidential business information.

Based on the foregoing, it is

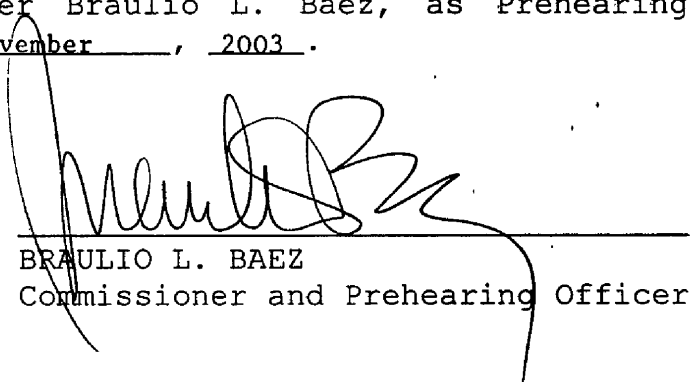
ORDERED by Commissioner Braulio L. Baez, as Prehearing Officer, that Florida Power & Light Company's Request for Confidential Classification of Document No. 03535-03 is granted. It is further

ORDER NO. PSC-03-1281-CFO-EI
DOCKET NO. 030001-EI
PAGE 3

ORDERED that the information in Document No. 03535-03 for which confidential classification has been granted shall remain protected from disclosure for a period of 18 months from the date of issuance of this order. It is further

ORDERED that this Order shall be the only notification by the Commission to the parties of the date of declassification of the materials discussed herein.

By ORDER of Commissioner Braulio L. Baez, as Prehearing Officer, this 10th day of November, 2003.



BRAULIO L. BAEZ
Commissioner and Prehearing Officer

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NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

Mediation may be available on a case-by-case basis. If mediation is conducted, it does not affect a substantially interested person's right to a hearing.

Any party adversely affected by this order, which is preliminary, procedural or intermediate in nature, may request: (1) reconsideration within 10 days pursuant to Rule 25-22.0376, Florida Administrative Code, if issued by a Prehearing Officer; (2) reconsideration within 15 days pursuant to Rule 25-22.060, Florida Administrative Code, if issued by the Commission; or (3) judicial review by the Florida Supreme Court, in the case of an electric, gas or telephone utility, or the First District Court of Appeal, in the case of a water or wastewater utility. A motion for reconsideration shall be filed with the Director, Division of the Commission Clerk and Administrative Services, in the form prescribed by Rule 25-22.060, Florida Administrative Code. Judicial review of a preliminary, procedural or intermediate ruling or order is available if review of the final action will not provide an adequate remedy. Such review may be requested from the appropriate court, as described above, pursuant to Rule 9.100, Florida Rules of Appellate Procedure.

EXHIBIT C

COMPANY: Florida Power & Light Company
TITLE: List of Confidential Workpapers
DOCKET NO.: 030001-EI
DOCKET TITLE: Levelized Fuel Cost Recovery and Capacity Cost Recovery
SUBJECT: Hedging Activity
DATE: April 16, 2003

**FLORIDA
 STATUTE
 366.093(3)
 Subsection: AFFIANT**

PAGE NO. DESCRIPTION NO. OF CONF. PAGES Y/N LINE NO./ COL. NO. Subsection: AFFIANT

PAGE NO.	DESCRIPTION	NO. OF PAGES	CONF. Y/N	LINE NO./ COL. NO.	Subsection:	AFFIANT
1	2002 Totals - FPL Natural Gas Procurement	1	Y	Lines 3-12, Col B-E Lines 13-14, Col B	(a), (d)	G. Yupp
2	2002 Totals - FPL Heavy Fuel Oil Procurement	1	Y	Lines 3-12, Col B-E Lines 13-14, Col B	(a), (d)	G. Yupp
3	2002 Totals - Electricity-Premiums Only	1	Y	Lines 3-12, Col B-D Line 13, Col B	(a), (d)	G. Yupp
4	January 2002 FPL Natural Gas Procurement	1	Y	Lines 2-10, Col C-F	(a), (d)	G. Yupp
5	January 2002 FPL Heavy Fuel Oil Procurement	1	Y	Lines 2-10, Col C-F	(a), (d)	G. Yupp
6	January 2002 Electricity-Premiums Only	1	Y	Lines 2-10, Col C-E	(a), (d)	G. Yupp
7	February 2002 FPL Natural Gas Procurement	1	Y	Lines 2-10, Col C-F	(a), (d)	G. Yupp
8	February 2002 FPL Heavy Fuel Oil Procurement	1	Y	Lines 2-10, Col C-F	(a), (d)	G. Yupp
9	February 2002 Electricity-Premiums Only	1	Y	Lines 2-10, Col C-E	(a), (d)	G. Yupp
10	March 2002 FPL Natural Gas Procurement	1	Y	Lines 2-10, Col C-F	(a), (d)	G. Yupp
11	March 2002 FPL Heavy Fuel Oil Procurement	1	Y	Lines 2-10, Col C-F	(a), (d)	G. Yupp
12	March 2002 Electricity-Premiums Only	1	Y	Lines 2-10, Col C-E	(a), (d)	G. Yupp
13	April 2002 FPL Natural Gas Procurement	1	Y	Lines 2-10, Col C-F	(a), (d)	G. Yupp

EXHIBIT C

FLORIDA
 STATUTE
 366.093(3)
 Subsection: AFFILIANT

PAGE NO.	DESCRIPTION	NO. OF PAGES	CONF. Y/N	LINE NO./ COL. NO.	FLORIDA STATUTE 366.093(3) Subsection:	AFFILIANT
14	April 2002 FPL Heavy Fuel Oil Procurement	1	Y	Lines 2-10, Col C-F	(a), (d)	G. Yupp
15	April 2002 Electricity-Premiums Only	1	Y	Lines 2-10, Col C-E	(a), (d)	G. Yupp
16	May 2002 FPL Natural Gas Procurement	1	Y	Lines 2-10, Col C-F	(a), (d)	G. Yupp
17	May 2002 FPL Heavy Fuel Oil Procurement	1	Y	Lines 2-10, Col C-F	(a), (d)	G. Yupp
18	May 2002 Electricity-Premiums Only	1	Y	Lines 2-10, Col C-E	(a), (d)	G. Yupp
19	June 2002 FPL Natural Gas Procurement	1	Y	Lines 2-10, Col C-F	(a), (d)	G. Yupp
20	June 2002 FPL Heavy Fuel Oil Procurement	1	Y	Lines 2-10, Col C-F	(a), (d)	G. Yupp
21	June 2002 Electricity-Premiums Only	1	Y	Lines 2-10, Col C-E	(a), (d)	G. Yupp
22	July 2002 FPL Natural Gas Procurement	1	Y	Lines 2-10, Col C-F	(a), (d)	G. Yupp
23	July 2002 FPL Heavy Fuel Oil Procurement	1	Y	Lines 2-10, Col C-F	(a), (d)	G. Yupp
24	July 2002 Electricity-Premiums Only	1	Y	Lines 2-10, Col C-E	(a), (d)	G. Yupp
25	August 2002 FPL Natural Gas Procurement	1	Y	Lines 2-10, Col C-F	(a), (d)	G. Yupp
26	August 2002 FPL Heavy Fuel Oil Procurement	1	Y	Lines 2-10, Col C-F	(a), (d)	G. Yupp
27	August 2002 Electricity-Premiums Only	1	Y	Lines 2-10, Col C-E	(a), (d)	G. Yupp
28	September 2002 FPL Natural Gas Procurement	1	Y	Lines 2-10, Col C-F	(a), (d)	G. Yupp
29	September 2002 FPL	1	Y	Lines 2-10, Col C-F	(a), (d)	G. Yupp

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	Heavy Fuel Oil Procurement					
30	September 2002 Electricity-Premiums Only	1	Y	Lines 2-10, Col C-E	(a), (d)	G. Yupp
31	October 2002 FPL Natural Gas Procurement	1	Y	Lines 2-10, Col C-F	(a), (d)	G. Yupp
32	October 2002 FPL Heavy Fuel Oil Procurement	1	Y	Lines 2-10, Col C-F	(a), (d)	G. Yupp
33	October 2002 Electricity-Premiums Only	1	Y	Lines 2-10, Col C-E	(a), (d)	G. Yupp
34	November 2002 FPL Natural Gas Procurement	1	Y	Lines 2-11, Col C-F	(a), (d)	G. Yupp
35	November 2002 FPL Heavy Fuel Oil Procurement	1	Y	Lines 2-11, Col C-F	(a), (d)	G. Yupp
36	November 2002 Electricity-Premiums Only	1	Y	Lines 2-11, Col C-E	(a), (d)	G. Yupp
37	December 2002 FPL Natural Gas Procurement	1	Y	Lines 2-11, Col C-F	(a), (d)	G. Yupp
38	December 2002 FPL Heavy Fuel Oil Procurement	1	Y	Lines 2-13, Col C-F	(a), (d)	G. Yupp
39	December 2002 Electricity-Premiums Only	1	Y	Lines 2-11, Col C-E	(a), (d)	G. Yupp