



**Florida
Power**
CORPORATION

JAMES A. MCGEE
SENIOR COUNSEL

May 30, 1997

Ms. Blanca S. Bayó, Director
Division of Records and Reporting
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850

Re: Docket No. ~~970261-EI~~

Dear Ms. Bayó:

Enclosed for filing in the subject docket are an original and fifteen copies of Florida Power Corporation's Motion for Protective Order.

Please acknowledge your receipt of the above filing on the enclosed copy of this letter and return to the undersigned. Also enclosed is a 3.5 inch diskette containing the above-referenced document in WordPerfect format. Thank you for your assistance in this matter.

- ACK _____
- AFA _____
- APP 1
- CAF _____
- CMU _____
- CTR _____
- EAG Bas
- LEG 1
- LIN _____
- OPC _____
- RCH _____
- SEC 1
- NAS _____
- OTH _____

JAM/kp
Enclosures
cc: Parties of Record

Very truly yours

James A. McGee

MAY 31 1997
5:00 PM 2-100 16

DOCUMENT NUMBER-DATE

05481 JUN-25

GENERAL OFFICE

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FPSC-RECORDS/REPORTING

CERTIFICATE OF SERVICE

Docket No. 970261-EI

I HEREBY CERTIFY that a true and correct copy of Florida Power Corporation's Motion for Protective Order has been sent by regular U.S. mail to the following individuals on May 30, 1997:

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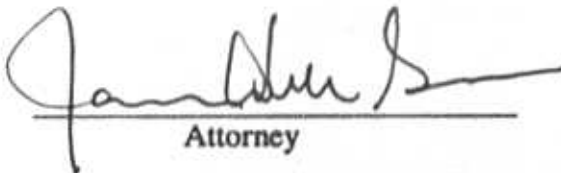
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Wayne R. Malaney
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Tallahassee, FL 32314-7014



Attorney

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Review of nuclear outage
at Florida Power Corporation's
Crystal River Unit No. 3.

Docket No. 970261-EI
Submitted for filing:
May 30, 1997

**FLORIDA POWER CORPORATION'S
MOTION FOR PROTECTIVE ORDER**

Florida Power Corporation ("FPC"), pursuant to Section 366.093, Florida Statutes, Rule 25-22.006, F.A.C., and Rule 1.280, Fla. R. Civ. P., hereby moves the Commission for a protective order to preserve the confidentiality of certain documents created by the Institute of Nuclear Power Operations ("INPO"), as well as additional confidential documents created by third parties in which such parties have a proprietary interest. In support of its motion, FPC states:

Background

On September 2, 1996, FPC's Crystal River Unit 3 Nuclear Power Plant ("CR-3") was shut down because of the rupture of an oil pipe in CR-3's main turbine lubricating oil system. FPC repaired the oil pipe but elected to continue the shutdown to make other equipment modifications needed to ensure that CR-3 remained in compliance with regulatory requirements governing its safe operation.

By Order No. PSC-97-0246-PCO-EI, issued February 28, 1997, the Commission opened Docket No. 970261-EI to investigate the outage at CR-3. In propounding requests for production of documents to FPC in this docket, both the

Office of Public Counsel and the Commission's Staff have requested that FPC produce documents created by third parties within which those parties have a proprietary interest.

Specifically, Public Counsel has requested (doc. req. no. 9) that FPC produce "all assessments of the operation or management of Crystal River Unit 3 performed since 1990 by any outside agencies or groups including INPO. . . ." Staff has requested (doc. req. no. 13) "all plant operating evaluations prepared by the Institute of Nuclear Power Operations (INPO) regarding the 1996 refueling outage and the current outage." FPC timely objected to each request on the grounds that, among other things, the documents were covered by confidentiality agreements with third parties.

Justification for Confidential Classification

The documents for which FPC seeks confidential classification ("Confidential Information") were created by third parties, including INPO and consultants hired by FPC. The documents were created and entrusted to the custody of FPC with the expectation and understanding that they would be kept confidential and not disclosed to others. In keeping with FPC's obligations in this regard, FPC requests that such documents be treated as confidential business information. FPC makes such documents available to Public Counsel and the Staff pursuant to the requirement set forth in "Discovery" paragraph "c." on page 2 of the Commission's Order No. PSC-978-246-PCO-EI dated February 28, 1997, which

mandates that such information "shall be treated by the Commission and the parties as confidential" pending a formal ruling by the Commission or return of the information to FPC. FPC further requests that the documents be handled in accordance with the procedures set forth below.

Terms of Handling Confidential Information

1. The Confidential Information is produced pursuant to the procedures for handling Confidential Information set forth herein and shall not be disclosed or used by any party except to the extent necessary to participate in Docket No. 970261EI and except in accordance with the procedures for handling Confidential Information set forth herein, unless superseded by an Order of the Commission.

2. Copies of the Confidential Information shall not be placed in any file available to the public and shall not otherwise be used by any party in a manner which could result in its public disclosure.

3. A party may disclose the Confidential Information to its counsel of record, associated attorneys, employees and consultants providing technical advice to that party for the sole purpose of participating in Docket No. 970261EI. A person obtaining access to the Confidential Information shall first certify, in writing, his or her agreement to comply with and be bound by the procedures for handling Confidential Information set forth herein, unless superseded by an Order of the Commission, pursuant to the following certification:

*The undersigned agrees that the Confidential Information is disclosed to the undersigned subject to

the procedures for handling Confidential Information set forth in FPC's Motion unless superseded by Order of the Commission, and agrees, as a condition of being permitted to review the Confidential Information, to be personally bound by the procedures for handling Confidential Information set forth in FPC's Motion, unless superseded by Order of the Commission. The undersigned also agrees that the Confidential Information shall not be disclosed to any person other than in accordance with the procedures for handling Confidential Information set forth in FPC's Motion, unless superseded by Order of the Commission, and shall be used solely for the purpose of participating in Docket No. 970261EI."

If any person to whom the Confidential Information is disclosed ceases to participate in the proceedings related to Docket No. 970261EI, access to or possession of the Confidential Information by such person shall be terminated. Every person who has certified to comply with the procedures for handling Confidential Information shall continue to be bound by the provision of such procedures regardless of whether access to or possession of the Confidential Information is terminated.

4. All parties shall take all practicable actions necessary to ensure that the Confidential Information shall not be disclosed or used in any hearing or other proceeding before the Commission or any other regulatory, judicial or legislative body unless: (i) that hearing is held in camera before the Commission or a presiding officer assigned by the Commission to hear this matter; or (ii) a presiding officer determines that such a hearing need not be held in camera.

5. Disclosure of Confidential Information in pleadings, testimony or any other submission to the Commission will be filed and served under seal, and disclosure of Confidential Information during any examination of witnesses or oral presentation will be conducted in camera, closed to all persons other than those persons entitled to access to the Confidential Information.

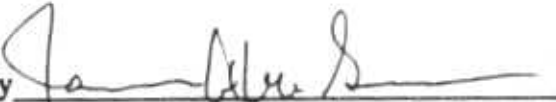
6. No later than 30 days following conclusion of the proceedings related to Docket No. 970261EI, the Confidential Information, and all copies thereof, shall be returned to FPC by all parties. Each party shall certify in writing to FPC that it does not retain any copies of the Confidential Information. As used in this paragraph, "conclusion of the proceedings" refers to exhaustion of available appeals or the running of the time for the taking of such appeals, as provided by applicable law.

7. Nothing in these procedures for handling Confidential Information shall be construed as precluding FPC from objecting to the use of the Confidential Information, or information derived therefrom, on any grounds.

WHEREFORE, Florida Power Corporation requests that the Confidential Information produced to Public Counsel and the Commission's Staff pursuant to this Motion for Protective Order, and any other Confidential Information that may be produced by FPC to any party in this docket, be classified as confidential and handled in accordance with the terms set forth herein.

Respectfully submitted,

Office of the General Counsel
Florida Power Corporation

By 

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