

ORIGINAL

Florida Power & Light Company, P. O. Box 029100 Miami, FL 33102-9100



(305) 552-3922

April 21, 1998

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

VIA FEDERAL EXPRESS

Re: **Docket No. 980001-EI**

Dear Ms. Bayó:

Enclosed for filing with the Commission in Docket No. 980001-EI are the original and fifteen copies of FPL's Request for Confidential Classification regarding certain information reported on the Commission's Form 423-1(a) for the month of February 1998. The original is accompanied by Attachments A, B and C. Please note that Attachment A is an unedited Form 423-1(a) and therefore needs to be treated as confidential. The fifteen copies are accompanied by Attachments B and C.

If you have any questions regarding this transmittal or the information filed herewith, you may contact me at (305) 552-3922.

Very truly yours,

A handwritten signature in black ink, appearing to read 'Joaquin E. Leon', is written over a printed name and title.

Joaquin E. Leon
Senior Attorney

JEL:arl

Enclosures

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BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

In re: Fuel and Purchased Power)
Cost Recovery Clause and Generating) Docket No. 980001-EI
Performance Incentive Factor)
)

REQUEST FOR CONFIDENTIAL CLASSIFICATION

Pursuant to §366.093, Fla. Stat. (1997) and Fla. Admin. Code R. 25-22.006, Florida Power & Light Company ("FPL") hereby files with the Florida Public Service Commission ("Commission") this "Request for Confidential Classification" ("Request") regarding certain information reported on FPL's February 1998 423-1(a) Fuel Report as delineated below. In support of this Request, FPL states:

1. FPL seeks classification of the information specified as proprietary confidential business information pursuant to §366.093, Fla. Stat. (1997), which provides in pertinent part, as follows:

(1) *** Upon request of the public utility or other person, 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 s. 119.07(1).

• • •

(3) *** Proprietary confidential business information includes, but is not limited to:

* * *

(d) Information 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.

2. In applying the statutory standards delineated above in paragraph 1, the Commission is not required to weigh the merits of public disclosure relative to the interests of utility customers. The issue presented to the Commission, by this FPL Request, is whether the information sought to be protected fits within the statutory definitions of proprietary confidential business information, as set forth in §366.093, Fla. Stat. (1997). If the information is found by the Commission to fit within the statutory definitions, then it should be classified as confidential, be treated in accordance with Fla Admin Code R. 25-22.006, and be exempt from §119.07(1), Fla Stat. (1997). To establish that material is proprietary confidential business information under §366.093(3)(d), Fla Stat (1997), a utility must demonstrate that (i) the information is contractual data, and (ii) the disclosure of the data would impair the efforts of the utility to contract for goods or services on favorable terms.

3. Attached to this Request and incorporated herein by reference are the following documents:

Attachment A A copy of FPL's February 1998 Form 423-1(a) with the information for which FPL seeks confidential classification highlighted. This document is to be treated as confidential.

Attachment B An edited copy of FPL's February 1998 Form 423-1(a) with the

information for which FPL seeks confidential classification edited out. This document may be made public.

Attachment C

A line-by-line justification matrix identifying each item on FPL's Form 423-1(a) for which confidential classification is sought, along with a written explanation demonstrating that (1) the information is contractual data, and (2) the disclosure of such data would impair the efforts of FPL to contract for goods or services on favorable terms.

4. FPL requests that the Commission make two findings with respect to the No. 6 fuel oil information identified as confidential on Attachments A and C

- (a) That the No. 6 fuel oil data identified is contractual data; and
- (b) That FPL's ability to procure No. 6 fuel oil, terminaling and transportation services, and petroleum inspection services is reasonably likely to be impaired by the disclosure of the information identified because:
 - (i) The markets in which FPL, as a buyer, must procure No. 6 fuel oil, terminaling and transportation services, and fuel inspection services are oligopolistic; and
 - (ii) Pursuant to economic theory, a substantial buyer in an oligopolistic market can obtain price concessions not available to other buyers, but the disclosure of such concessions would end them, resulting in higher prices to that purchaser.

5. Although FPL normally requests that the Commission make findings with respect to No. 2 and No. 3 fuel oil information identified as confidential on Attachments A and C, FPL made no purchases of No. 2 or No. 3 fuel oil during February 1998 and, therefore, no such information appears on Attachments A and C to this Request.

6. FPL requests that the information for which FPL seeks confidential classification not be declassified until the dates specified on Attachment C. The time

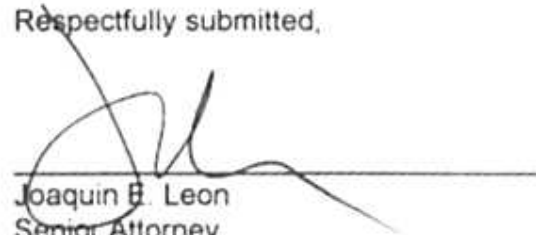
periods requested are necessary to allow FPL to utilize its market presence in negotiating future contracts. Disclosure prior to the identified dates of declassification would impair FPL's ability to negotiate future contracts.

7. The material identified as confidential information on Attachments A and C is intended to be and is treated by FPL as private, and has not, to the best of FPL's knowledge and belief, otherwise been publicly disclosed.

WHEREFORE, FPL respectfully requests that the Commission grant FPL's Request for Confidential Classification as permitted by Fla.Admin Code R. 25-22.006, and classify as confidential the information identified on Attachments A and C.

Dated April 21, 1998

Respectfully submitted,



Joaquin B. Leon
Senior Attorney
Florida Power & Light Company
9250 W. Flagler Street, #6467
Miami, Florida 33174
(305) 552-3922
Florida Bar No. 230197

ATTACHMENT B

FPSC FORM NO 423-1 (A)

MONTHLY REPORT OF COST AND QUALITY OF FUEL OIL FOR ELECTRIC PLANTS
DETAIL OF INVOICE AND TRANSPORTATION CHARGES

3 NAME TITLE TELEPHONE NUMBER OF CONTACT PERSON CONCERNING DATA
SUBMITTED ON THIS FORM 5 J ADAMS REGULATORY AFFAIRS, (202) - 552-3448

4 SIGNATURE OF OFFICIAL SUBMITTING REPORT *[Signature]*

5 DATE COMPLETED 2/1/98

2 REPORTING COMPANY FLORIDA POWER LIGHT COMPANY

LINE NO	PLANT	SUPPLIER	DELIVERY LOCATION	DELIVERY DATE	TYPE OIL	VOLUME (BBL'S)	INVOICE PRICE (\$/BBL)	INVOICE AMOUNT (\$)	DISCOUNT (\$)	NET AMOUNT (\$)	NET PRICE (\$/BBL)	QUALITY ADJUST (\$/BBL)	EFFECTIVE PUR PRICE (\$/BBL)	TRANSP TO TERM (\$/BBL)	ADDITIONAL CHGS (\$/BBL)	OTHER (\$/BBL)	DELIVERED PRICE (\$/BBL)
1	RIVERIA	COASTAL	PALM BEACH	02/18/98	FOG	1028						0.0000					14.8273
2	MAVATEE	COASTAL	PORT MAVATEE	02/25/98	FOG	257478						0.0000					12.9454
3	PT EVERGLADES	COASTAL	PORT EVERGLADES	02/13/98	FOG	275712						0.0000					13.0095
4	SAVAFORD	COASTAL	JACKSONVILLE	02/02/98	FOG	119504						0.0000					13.1226
5	SAVAFORD	COASTAL	JACKSONVILLE	02/02/98	FOG	140110						0.0000					12.6479
6	MAVATEE	COASTAL	PALM BEACH	02/18/98	FOG	96090						0.0000					15.1096
7	TURKEY POINT	RIO	FISHER ISLAND	02/14/98	FOG	129211						0.0000					13.8398
8	TURKEY POINT	RIO	FISHER ISLAND	02/28/98	FOG	130378						0.0000					13.1278
9	FT MYERS	TEXACO	BOCA GRANDE	02/10/98	FOG	90128						0.0000					12.7822
10	FT MYERS	TEXACO	BOCA GRANDE	02/11/98	FOG	114890						0.0000					11.8242
11	FT MYERS	TEXACO	BOCA GRANDE	02/20/98	FOG	88308						0.0000					12.8502
12	RIVERIA	TEXACO	RIVERIA	02/23/98	FOG	118759						0.0000					11.9803
13	RIVERIA	AMERIGAS	AMERIGAS	02/13/98	PRO	8	34.8270	278	0	278	34.8270	0.0000	34.8270	0.0000	0.0000	0.0000	34.8270
14	PT EVERGLADES	AMERIGAS	AMERIGAS	02/05/98	PRO	11	34.8398	384	0	384	34.8398	0.0000	34.8398	0.0000	0.0000	0.0000	34.8398
15	RIVERIA	AMERIGAS	AMERIGAS	02/02/98	PRO	7	34.8738	244	0	244	34.8738	0.0000	34.8738	0.0000	0.0000	0.0000	34.8738
16	RIVERIA	AMERIGAS	AMERIGAS	02/28/98	PRO	5	34.4870	172	0	172	34.4870	0.0000	34.4870	0.0000	0.0000	0.0000	34.4870
17	TURKEY POINT	AMERIGAS	AMERIGAS	02/17/98	PRO	7	35.0240	245	0	245	35.0240	0.0000	35.0240	0.0000	0.0000	0.0000	35.0240
18	PT EVERGLADES	AMERIGAS	AMERIGAS	02/28/98	PRO	12	34.5420	415	0	415	34.5420	0.0000	34.5420	0.0000	0.0000	0.0000	34.5420
19	MAVATEE	INCANTOWN	INCANTOWN	02/09/98	PRO	15	31.0653	466	0	466	31.0653	0.0000	31.0653	0.0000	0.0000	0.0000	31.0653
20	MAVATEE	SUBURBAN	SUBURBAN	02/06/98	PRO	30	31.5020	945	0	945	31.5020	0.0000	31.5020	0.0000	0.0000	0.0000	31.5020
21	MAVATEE	SUBURBAN	SUBURBAN	02/26/98	PRO	24	31.4900	756	0	756	31.4900	0.0000	31.4900	0.0000	0.0000	0.0000	31.4900
22	SAVAFORD	SUBURBAN	SUBURBAN	02/05/98	PRO	11	35.8502	394	0	394	35.8502	0.0000	35.8502	0.0000	0.0000	0.0000	35.8502
23	CAPE CANAVERAL	SUBURBAN	SUBURBAN	02/03/98	PRO	7	35.8240	251	0	251	35.8240	0.0000	35.8240	0.0000	0.0000	0.0000	35.8240

ATTACHMENT C

Docket No. 980001-EI
March 1998

Justification for Confidentiality for February 1998 Report:

<u>FORM</u>	<u>LINE(S)</u>	<u>COLUMN</u>	<u>RATIONALE</u>
423-1(a)	1 - 12	H	(1)
423-1(a)	1 - 12	I	(2)
423-1(a)	1 - 12	J	(2), (3)
423-1(a)	1 - 12	K	(2)
423-1(a)	1 - 12	L	(2)
423-1(a)	1 - 12	M	(2), (4)
423-1(a)	1 - 12	N	(2), (5)
423-1(a)	1 - 12	P	(6), (7)
423-1(a)	1 - 12	Q	(6), (7)

Rationale for confidentiality:

- (1) This information is contractual information which, if made public, "would impair the efforts of [FPL] to contract for goods or services on favorable terms" Section 366.093(3)(d), Fla.Stat. (1997). The information delineates the price FPL has paid for No. 6 fuel oil per barrel for specific shipments from specific suppliers. This information would allow suppliers to compare an individual supplier's price with the market quote for that date of delivery and thereby determine the contract pricing formula between FPL and that supplier.

Contract pricing formulas generally contain two components, which are (i) a markup in the market quoted price for that day and (ii) a transportation charge for delivery at an FPL chosen port of delivery. Discounts and quality adjustment components of fuel price contract formulas are discussed in paragraphs 3 and 4. Disclosure of the invoice price would allow suppliers to determine the contract price formula of their competitors. The knowledge of each others' prices (i.e., contract formulas) among No. 6 fuel oil suppliers is reasonably likely to cause the suppliers to converge on a target price, or to follow a price leader, effectively eliminating any opportunity for a major buyer like FPL to use its market presence to gain price concessions from any one supplier. The end result is reasonably likely to be increased No. 6 fuel oil prices and therefore increased electric rates.

- (2) The contract data found in Columns I through N are an algebraic function of Column H. That is, the publication of these Columns together, or independently, could allow a supplier to derive the invoice price of oil.
- (3) Some FPL fuel contracts provide for an early payment incentive in the form of a discount from the invoice price. The existence and amount of such discount is confidential for the reasons stated in paragraph (1) relative to price concessions.
- (4) For fuel that does not meet contract requirements, FPL may reject the shipment, or accept the shipment and apply a quality adjustment. This is, in effect, a pricing term which is as important as the price itself and is therefore confidential for the reasons stated in paragraph (1) relative to price concessions.
- (5) Column N is as important as H from a confidentiality standpoint because of the relatively few times that there are quality or discount adjustments. That is, Column N will equal Column H most of the time. Consequently, Column N needs to be protected for the same reasons as set forth in paragraph (1).
- (6) Column R is used to mask the delivered price of fuel such that the invoice or effective price of fuel cannot be determined. Columns P and Q are algebraic variables of Column R. Consequently, disclosure of Columns P and Q would allow a supplier to calculate the invoice or effective purchase price of oil (Columns H and N) by subtracting these columnar variables from Column R.
- (7) Terminating and transportation services in Florida tend to have the same, if not more severe, oligopolistic attributes of fuel oil suppliers. In 1987, FPL was only able to find eight qualified parties with an interest in bidding either or both of these services. Of these, four responded with transportation proposals and six with terminating proposals. Due to the small demand in Florida for both of these services, market entry is difficult. Consequently, disclosure of these contract data is reasonably likely to result in increased prices for terminating and transportation

services.

Petroleum inspection services also have the market characteristics of an oligopoly. Due to the limited number of fuel terminal operations, there are correspondingly few requirements for fuel inspection services. In FPL's last bidding process for petroleum inspection services, only six qualified bidders were found for FPL's bid solicitations. Consequently, disclosure of these contract data is reasonably likely to result in increased prices for petroleum inspection services.

Date of Declassification:

<u>FORM</u>	<u>LINE(S)</u>	<u>COLUMN(S)</u>	<u>DATE</u>
423-1(a)	1	H - N	08/31/98
423-1(a)	2-5	H - N	03/30/00
423-1(a)	6-12	H - N	08/31/98

Rationale:

FPL requests that the confidential information identified above not be disclosed until the identified date of declassification. The date of declassification is determined by adding six months to the last day of the contract period under which the goods or services identified on Form 423-1(a) or 423-1(b) were purchased.

Disclosure of pricing information during the contract period or prior to the negotiation of a new contract is reasonably likely to impair FPL's ability to negotiate future contracts as described above.

FPL typically renegotiates its No. 6 fuel oil contracts and fuel-related services contracts prior to the end of such contracts. However, on occasion, some contracts are not renegotiated until after the end of the current contract period. In those instances, the contracts are typically renegotiated within six months. Consequently, it is necessary to maintain the confidentiality of the information identified as confidential on FPL's Form 423-1(a) or 423-1(b) for six months after the end of the individual contract period to which the information relates.

With respect to No. 6 fuel oil price information on the Form 423-1(a) or 423-1(b) for oil that was not purchased pursuant to an already existing contract, and the terms of the

agreement under which it is purchased are fulfilled upon delivery. FPL requests the price information identified as confidential be kept confidential for a period of six months after the delivery. A six-month period is the minimum amount of time necessary for confidentiality of these types of purchases to allow FPL to utilize its market presence in gaining price concessions during seasonal fluctuations in the demand for No. 6 fuel oil. Disclosure of this information any sooner than six months after completion of the transaction is reasonably likely to impair FPL's ability to negotiate such purchases.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of Florida Power & Light Company's "Request for Confidential Classification" regarding certain information reported on the Commission's Form 423-1(a) for February 1998 was forwarded to the Florida Public Service Commission via Federal Express, and copies of the Request and Petition without Attachment A were mailed to the individuals listed below, all on this 21st day of April, 1998.

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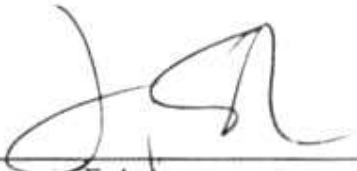
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