



ORIGINAL

Florida Power & Light Company  
9250 W. Flagler Street  
Miami, FL 33174

(305) 552-3922

May 7, 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 March 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,

  
Joaquin E. Leon  
Senior Attorney

11 MAY 9 1998  
COMMUNICATIONS SECTION

JEL:arl

Enclosures

F. MONTGOMERY PSC FORM 600 (REV. 8/87)

DOCUMENT NUMBER - DATE

05212 MAY -88

FPSC-RECORDS/REPORTING

ORIGINAL

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 March, 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:

DOCUMENT NUMBER-DATE  
05212 MAY-88  
FPSC-RECORDS/REPORTING

\* \* \*

(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 March 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 March 1996 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 through a bidding process of No. 2 or No. 3 fuel oil during March 1998 and, therefore, no such information is requested confidentially on Attachments A and C to this Request.

6. FPL requests that the information for which FPL seeks confidential

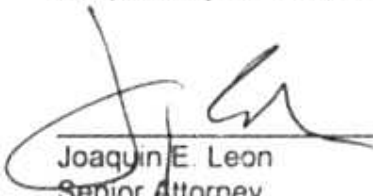
classification not be declassified until the dates specified on Attachment C. The time periods requested are necessary to allow FPL to utilize its market presence in negotiating future contracts. Disclosure prior to the identified dates of declassification would impair FPL's ability to negotiate future 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 May 7<sup>th</sup>, 1998

Respectfully submitted,



Joaquin E. 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

1 REPORTING MONTH MAR YEAR 1998

3 NAME, TITLE, TELEPHONE NUMBER OF CONTACT PERSON CONCERNING DATA  
 SUBMITTED ON THIS FORM S. J. ADAMS, REGULATORY AFFAIRS, (905) - 552-3488

2 REPORTING COMPANY FLORIDA POWER LIGHT COMPANY

4 SIGNATURE OF OFFICIAL SUBMITTING REPORT: *S. J. Adams*

5 DATE COMPLETED 4/14/98

(A) LINE NO	(B) PLANT	(C) SUPPLIER	(D) DELIVERY LOCATION	(E) DELIVERY DATE	(F) TYPE OIL (BBL)	(G) VOLUME (BBL)	(H) INVOICE PRICE (\$/BBL)	(I) INVOICE AMOUNT (\$)	(J) DISCOUNT (\$)	(K) NET AMOUNT (\$)	(L) NET PRICE (\$/BBL)	(M) QUALITY ADJUST. (\$/BBL)	(N) EFFECTIVE PUR PRICE (\$/BBL)	(O) TRANSP TO TERM (\$/BBL)	(P) ADDITIONAL TRANS CHGS (\$/BBL)	(Q) OTHER CHGS (\$/BBL)	(R) DELIVERED PRICE (\$/BBL)
1	FT. EVERGLADES	COASTAL	PORT EVERGLADES	03/28/98	FO6	122932								0.0000			12.7100
2	TURKEY POINT	COASTAL	FISHER ISLAND	03/29/98	FO6	157633								0.0000			13.2728
3	MANATEE	NOVARCO	PORT MANATEE	03/16/98	FO6	232054								0.0000			12.2551
4	SANFORD	NOVARCO	JACKSONVILLE	03/05/98	FO6	231341								0.0000			12.8771
5	SANFORD	NOVARCO	JACKSONVILLE	03/27/98	FO6	123751								0.0000			11.9341
6	SANFORD	GLENORE	JACKSONVILLE	03/18/98	FO6	75088								0.0000			11.4771
7	FT. EVERGLADES	RIO	PORT EVERGLADES	03/12/98	FO6	56630								0.0000			12.2950
8	TURKEY POINT	RIO	FISHER ISLAND	03/11/98	FO6	74233								0.0000			12.8278
9	FT. MYERS	TEXACO	BOCA GRANDE	03/01/98	FO6	88526								0.0000			12.3302
10	FT. MYERS	TEXACO	BOCA GRANDE	03/05/98	FO6	114385								0.0000			10.4848
11	FT. MYERS	TEXACO	BOCA GRANDE	03/14/98	FO6	115507								0.0000			9.7798
12	FT. MYERS	TEXACO	BOCA GRANDE	03/26/98	FO6	90184								0.0000			9.9578
13	RIVERA	TEXACO	RIVERA	03/14/98	FO6	90112								0.0000			10.0181
14	RIVERA	TEXACO	RIVERA	03/16/98	FO6	117255								0.0000			9.8781
15	RIVERA	TEXACO	RIVERA	03/24/98	FO6	117481								0.0000			9.5651
16	MARTIN	COASTAL		03/31/98	FO2	177	21.0330	3.723	0	3.723	21.0330	0.0000	21.0330	0.0000	0.0000	0.0000	21.0330
17	MARTIN	COASTAL		03/31/98	FO2	177	21.0330	3.723	0	3.723	21.0330	0.0000	21.0330	0.0000	0.0000	0.0000	21.0330
18	MARTIN	COASTAL		03/31/98	FO2	173	21.0330	3.839	0	3.839	21.0330	0.0000	21.0330	0.0000	0.0000	0.0000	21.0330
19	MARTIN	COASTAL		03/31/98	FO2	179	21.0330	3.765	0	3.765	21.0330	0.0000	21.0330	0.0000	0.0000	0.0000	21.0330
20	FT. EVERGLADES	AMERGAS		03/26/98	PRO	13	35.3700	460	0	460	35.3700	0.0000	35.3700	0.0000	0.0000	0.0000	35.3700
21	RIVERA	AMERGAS		03/13/98	PRO	6	36.2800	218	0	218	36.2800	0.0000	36.2800	0.0000	0.0000	0.0000	36.2800
22	TURKEY POINT	AMERGAS		03/30/98	PRO	7	33.3700	234	0	234	33.3700	0.0000	33.3700	0.0000	0.0000	0.0000	33.3700
23	FT. MYERS	AMERGAS		03/06/98	PRO	6	36.8100	221	0	221	36.8100	0.0000	36.8100	0.0000	0.0000	0.0000	36.8100
24	MARTIN	INDANTOWN		03/20/98	PRO	14	32.0000	448	0	448	32.0000	0.0000	32.0000	0.0000	0.0000	0.0000	32.0000
25	SANFORD	SUBURBAN		03/11/98	PRO	12	35.0500	421	0	421	35.0500	0.0000	35.0500	0.0000	0.0000	0.0000	35.0500
26	SANFORD	SUBURBAN		03/30/98	PRO	8	37.2500	298	0	298	37.2500	0.0000	37.2500	0.0000	0.0000	0.0000	37.2500

**Justification for Confidentiality for March 1998 Report:**

<u>FORM</u>	<u>LINE(S)</u>	<u>COLUMN</u>	<u>RATIONALE</u>
423-1(a)	1 - 15	H	(1)
423-1(a)	1 - 15	I	(2)
423-1(a)	1 - 15	J	(2), (3)
423-1(a)	1 - 15	K	(2)
423-1(a)	1 - 15	L	(2)
423-1(a)	1 - 15	M	(2), (4)
423-1(a)	1 - 15	N	(2), (5)
423-1(a)	1 - 15	P	(6), (7)
423-1(a)	1 - 15	Q	(6), (7)

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**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 366.003(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) Terminaling 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 terminaling 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 terminaling 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.

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**Date of Declassification:**

<u>FORM</u>	<u>LINE(S)</u>	<u>COLUMN(S)</u>	<u>DATE</u>
423-1(a)	1-2	H - N	03/30/00
423-1(a)	3-5	H - N	03/30/00
423-1(a)	6-15	H - N	09/30/98
423-1(a)	1-5	P - Q	03/30/00
423-1(a)	6-15	P - Q	09/30/98

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**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 March 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 7<sup>th</sup> day of May, 1998.

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