



Florida Power & Light Company, P. O. Box 14000, Juno Beach, FL 33408-0420
Law Department

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Writer's Direct Dial:
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July 17, 1998

VIA HAND DELIVERY

Ms. Blanca S. Bayó
Director
Division of Records and Reporting
Florida Public Service Commission
Betty Easley Conference Center
2540 Shumard Oak Boulevard
Room 110
Tallahassee, FL 32399-0850

**Re: Florida Power & Light Company's Request for
Confidential Classification of Certain Material
Provided in Connection with the Monthly Fuel Filings
Docket No. 980001-EI**

Dear Ms. Bayó:

In accordance with Rule 25-22.006, Florida Administrative Code, and Section 366.093, Florida Statutes, Florida Power & Light Company ("FPL") hereby submits for filing the original and fifteen (15) copies of FPL's Request for Confidential Classification in connection with the Monthly Fuel Filings in Docket No. 980001-EI. FPL's Request for Confidential Classification includes the following Attachments:

- (i) One (1) copy of Attachment A, the confidential information referred to in FPL's Request, submitted for filing in a separate, sealed folder or carton marked "ATTACHMENT A - CONFIDENTIAL;"
- (ii) Two (2) copies of Attachment B, edited versions of the same information included in

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Blanca S. Bayó, Director
Division of Records and Reporting
Florida Public Service Commission
July 17, 1998
Page 2

Attachment A and referred to in FPL's Request, in which documents the information FPL asserts is confidential has been blocked out, submitted for filing in two separate folders each marked as "ATTACHMENT B; and"

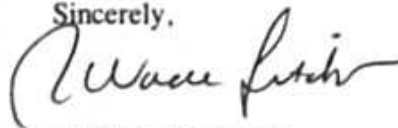
(iii) The original and fifteen (15) copies of Attachment C, containing FPL's justification for the request for confidential classification with respect to each item or type of information, submitted for filing as an attachment to FPL's Request.

Pursuant to Rule 25-22.006(3)(d), FPL requests confidential treatment of the information in Attachment A pending disposition of FPL's request for Confidential Classification.

Also included herewith is a computer diskette containing FPL's Request for Confidential Classification and Attachment C (in Word Perfect 6.1)

Please do not hesitate to contact me should you or your Staff have any questions regarding this filing.

Sincerely,



R. Wade Litchfield
Senior Attorney
Florida Authorized House Counsel

DOCUMENT NUMBER-DATE
07539 JUL 17 98
FISCHER-DATAREPORTING

**BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION**

In re: Fuel and Purchased Power)	DOCKET NO. 980001-EI
Cost Recovery Clause and Generating)	
Performance Incentive Factor)	FILED: July 17, 1998

REQUEST FOR CONFIDENTIAL CLASSIFICATION

NOW, BEFORE THIS COMMISSION, through undersigned counsel, comes Florida Power & Light Company ("FPL") and, pursuant to section 25-22.006 of the Florida Administrative Code and section 366.093 of the Florida Statutes, hereby requests confidential classification of certain information on Florida Public Service Commission ("FPSC" or "Commission") Form 423-1(a) submitted in Docket No. 980001-EI. In support of its Request, FPL states as follows:

1. Petitioner's name and address are:

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

Orders, notices, or other pleadings related to this request should be served on:

William G. Walker, III Vice President Florida Power & Light Company 212 South Monroe Street Suite 810 Tallahassee, FL 32301-1859 (850) 224-7517	R. Wade Litchfield Senior Attorney Florida Power & Light Company 700 Universe Boulevard Juno Beach, Florida 33408-0420 (561) 691-7101
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2. The following attachments are included herewith and made a part hereof:

a. Attachment A consists of FPL's May 1998 Form 423-1(a), certain information of which FPL asserts is entitled to confidential treatment. The information in Attachment A that FPL submits is confidential has been highlighted. Attachment A is submitted separately in a sealed envelope marked "CONFIDENTIAL."

b. Attachment B consists of an edited version of Attachment A. All information that FPL asserts is entitled to confidential treatment has been blocked out in Attachment B.

c. Attachment C identifies information for which confidential treatment is sought, and, with regard to each item or type of information, contains a brief statement explaining the need for confidentiality and referring to the specific statutory basis or bases for the request for confidential classification.

3. Pursuant to section 366.093, FPL seeks confidential protection for the information highlighted in Attachment A. FPL submits that such information is proprietary confidential business information within the meaning of section 366.093(3). Pursuant to section 366.093, such materials are entitled to confidential treatment and are exempt from the disclosure provisions of the public records law. Thus, once the Commission determines that the information in question is proprietary confidential business information, the Commission is not required to engage in any further analysis or review such as weighing the harm of disclosure against the public interest in access to the information.

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

(a) The No. 6 fuel oil data identified are contractual data; and

(b) 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:

- (1) 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
- (2) 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 price to that purchaser.

5. FPL typically seeks confidential treatment of No. 2 and No. 3 fuel oil information; however, because FPL made no purchases through a bidding process of No. 2 or No. 3 fuel oil during May 1998, no such request is necessary with respect to the May 1998 Form 423-1(a).

6. FPL requests that the information for which FPL seeks confidential classification not be declassified until the dates specified on Attachment C in order to allow FPL a reasonable period of time within which to negotiate future contracts. Disclosure prior to the requested dates for declassification would impair FPL's ability to negotiate future contracts.

7. The statutory bases and support for FPL's assertion of confidentiality with regard to specific items or type of information are set forth in Attachment C. The information for which confidential classification is sought is intended to be and is treated by FPL as confidential, and has not, to the best of FPL's knowledge and belief, been publicly disclosed.

8. Upon a finding by the Commission that the material in Attachment A for which FPL seeks confidential treatment is proprietary confidential business information within the meaning of section 366.093(3), pursuant to section 366.093(4) such materials should not be declassified for the protective period set by the Commission. Further, the materials should be returned to FPL as soon as the information is no longer necessary for the Commission to conduct its business.

WHEREFORE, for the above and foregoing reasons, including those set forth in the supporting materials included herewith, Florida Power & Light Company respectfully requests that its Request for Confidential Classification be granted.

Respectfully submitted,



R. WADE LITCHFIELD
Senior Attorney
Florida Authorized Counsel
Florida Power & Light Company
700 Universe Boulevard
Juno Beach, Florida 33408-0420
(561) 691-7101

ATTACHMENT C

Docket No. 980001-EI
MAY 1998

Justification for Confidentiality for May 1998 Report:

<u>FORM</u>	<u>LINE(S)</u>	<u>COLUMN</u>	<u>RATIONALE</u>
423-1(a)	1 - 21	H	(1)
423-1(a)	1 - 21	I	(2)
423-1(a)	1 - 21	J	(2), (3)
423-1(a)	1 - 21	K	(2)
423-1(a)	1 - 21	L	(2)
423-1(a)	1 - 21	M	(2), (4)
423-1(a)	1 - 21	N	(2), (5)
423-1(a)	1 - 21	P	(6), (7)
423-1(a)	1 - 21	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. (1995). The information delineates the price per barrel FPL has paid for No. 6 fuel oil 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: (1) a markup in the market quoted price for that day; and (2) 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 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 obtain 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 that is as important as the price itself and therefore is 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 that characterize 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.

Date of Declassification:

<u>FORM</u>	<u>LINE(S)</u>	<u>COLUMN</u>	<u>RATIONALE</u>
423-1(a)	1 - 6	H - N, P & Q	03/30/00
423-1(a)	7 - 21	H - N, P & Q	11/30/98

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, THE UNDERSIGNED COUNSEL, HEREBY CERTIFY that a copy of Florida Power & Light Company's Request for Confidential Classification has been served via first class mail, postage prepaid to the parties listed below, this 17 day of July, 1998:

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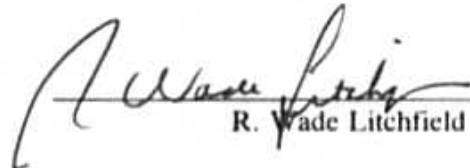
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