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October 16, 1998

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

RE: Docket No. 981042-EM  
Request for Specified Confidential Treatment

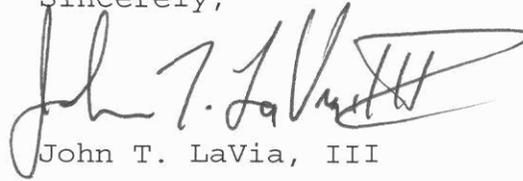
Dear Ms. Bayo:

Enclosed for filing is Duke Energy New Smyrna Beach Power Company Ltd., L.L.P.'s Request for Specified Confidential Treatment regarding a Transaction Agreement between Citrus Trading Corp. and Duke Energy Power Services, L.L.C., dated January 5, 1998 (hereinafter the "Citrus-DEPS Contract"). Exhibit B to the Request is a sealed envelope marked "Confidential Document Enclosed" containing an unedited copy of the Citrus-DEPS Contract which denotes the confidential information with highlighting. **This document should be treated as Specified Confidential.** Two redacted copies of the Citrus-DEPS Contract are also enclosed for filing.

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98 OCT 16 PM 4:44  
RECORDS AND REPORTING

RECEIVED  
FPSC-BUREAU OF RECORDS

Sincerely,

  
John T. LaVIA, III

Enclosures

cc: Parties of Record

- CK
- FA
- PP
- AF
- MU
- TR
- AG
- EG
- IN
- OJC
- RCH
- SEC
- WAS
- OTH

DOCUMENT NUMBER-DATE  
11599 OCT 16 98  
FPSC-RECORDS/REPORTING

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Joint Petition for )  
Determination of Need for an ) DOCKET NO. 981042-EM  
Electrical Power Plant in Volusia )  
County by the Utilities Commission, ) FILED: OCTOBER 16, 1998  
City of New Smyrna Beach, Florida, )  
and Duke Energy New Smyrna Beach )  
Power Company Ltd., L.L.P. )  
\_\_\_\_\_ )

REQUEST FOR SPECIFIED CONFIDENTIAL TREATMENT

Duke Energy New Smyrna Beach Power Company Ltd., L.L.P. ("Duke New Smyrna"), pursuant to Section 366.093, Florida Statutes ("F.S."), and Rule 25-22.006, Florida Administrative Code ("F.A.C."), requests Specified Confidential treatment of certain information it is submitting to the Commission in the above-referenced docket in response to Staff's First Request for Production of Documents propounded on Duke New Smyrna on September 16, 1998. In support of its request, Duke New Smyrna states as follows:

1. Staff's production requests 7 and 8 request that Duke New Smyrna provide the Commission with a copy of the Transaction Agreement between Citrus Trading Corp. and Duke Energy Power Services, L.L.C., dated January 5, 1998 (hereinafter the "Citrus-DEPS Contract"). The Citrus-DEPS Contract contains sensitive information relating to Duke New Smyrna's competitive interests, as well as the competitive interests of business partners of Duke New Smyrna and its affiliates, the disclosure of which would impair Duke New Smyrna's and those business partners' competitive business position.

2. Specifically, the Citrus-DEPS Contract contains sensitive information relating to pricing and other terms and conditions of the contractual arrangements between Citrus and DEPS that is competitively sensitive. Disclosure of this information to anyone outside the transaction would impair Duke New Smyrna's or Citrus's ability, or the ability of both, to enter into similar contracts on reasonable business terms. Disclosure of some of the information would also impair the competitive interests of DEPS's former business partner, IMC-Agrico Company by disclosing information that would enable IMC-Agrico's competitors and suppliers to comprehend sensitive information regarding IMC-Agrico's operations and business plans. As such, the information constitutes proprietary confidential business information entitled to protection from disclosure pursuant to Sections 366.093, (1), (3)(e), F.S., and Rule 25-22.006, F.A.C.

3. The following documents explaining this request are attached hereto and incorporated herein by reference:

Exhibit A: A justification "matrix" supporting Duke New Smyrna's request for Specified Confidential treatment of the highlighted information in Exhibit B, identified on a page-by-page, line-by-line basis.

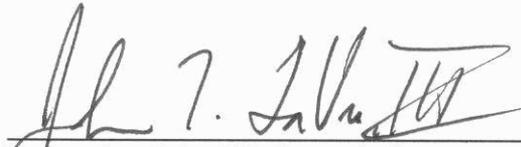
Exhibit B: The Citrus-DEPS Contract, with the confidential information subject to this request highlighted in transparent ink. These documents should be given confidential treatment and have been placed in a separate envelope marked "Confidential" which is attached hereto.

4. Pursuant to Rule 25-22.006 (4) (d), F.A.C., Duke New Smyrna affirms that the material identified as confidential in Exhibit B hereto is intended to be and is treated by Duke New Smyrna as confidential.

5. Duke New Smyrna requests that the information identified as confidential in Exhibit B be designated Specified Confidential by the Commission for the reasons set forth in Exhibit A. In addition, pursuant to Section 366.093 (4), F.S., Duke New Smyrna further requests that such designation be for a period of 18 months and that the documents containing the confidential information be returned to Duke New Smyrna upon the closure of this docket.

WHEREFORE, Duke Energy New Smyrna Beach Power Company Ltd, L.L.P. requests that the information contained in the Citrus-DEPS Contract and identified as confidential in Exhibit B hereto be accorded Specified Confidential treatment.

Respectfully submitted this 16th day of October, 1998.



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John T. LaVia, III  
Florida Bar No. 853666  
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Attorneys for the Utilities Commission,  
City of New Smyrna Beach, Florida,

and

Duke Energy New Smyrna Beach Power  
Company Ltd., L.L.P.

**CERTIFICATE OF SERVICE**  
**DOCKET NO. 981042-EM**

I HEREBY CERTIFY that a true and correct copy of the foregoing has been served by hand delivery (\*) or by United States Mail, postage prepaid, on the following individuals this 16th day of October, 1998:

Leslie J. Paugh, Esquire\*  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Gunter Building  
Tallahassee, FL 32399

Gail Kamaras  
LEAF  
1114 Thomasville Road  
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Tallahassee, FL 32303-6290

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Gary L. Sasso, Esquire  
Carlton, Fields et al  
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St. Petersburg, FL 33733

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Vice President, Regulatory Affairs  
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Asst. Secretary & Asst. Treasurer  
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Tallahassee, FL 32399-1400

  
\_\_\_\_\_  
Attorney

# EXHIBIT "A"

Duke New Smyrna  
Docket No. 981042-EM

## Request for Specified Confidential Treatment

### Citrus-DEPS Contract

<u>Page</u>	<u>Line(s)</u>	<u>Justification</u>
2	8-14	The redacted information describes certain future rights of the parties to the Citrus-DEPS Contract. The disclosure of this information would impair Citrus's competitive interests by informing Citrus's potential customers of terms and conditions that are the subject of sensitive negotiations in such business arrangements.
3	38-39	The redacted information describes a certain physical plant construction option that was considered by IMC-Agrico, the disclosure of which would impair IMC-Agrico's competitive interests by informing its competitors and suppliers of its business plans.
4	1-2	The redacted information describes certain potential business relations between DEPS and IMC-Agrico, the disclosure of which would impair IMC-Agrico's competitive interests by informing its competitors and suppliers of its business plans.
4	3-4	The redacted information describes a certain physical plant construction option that was considered by IMC-Agrico, the disclosure of which would impair IMC-Agrico's competitive interests by informing its competitors and suppliers of its business plans.

<u>Page</u>	<u>Line(s)</u>	<u>Justification</u>
4	20-31	The redacted information describes certain physical and contractual aspects of the gas supply arrangements that had been planned for the now-inoperative power plant project that was to have been developed by a DEPS affiliate and IMC-Agrico on IMC-Agrico's property in south central Florida. The disclosure of this information would impair IMC-Agrico's competitive interests by disclosing significant aspects of its business.
5	16-24	The redacted information contains sensitive pricing information regarding the price of gas supplied to the New Smyrna Beach Power Project. The disclosure of this information would impair Duke New Smyrna's competitive interest by enabling its competitors to calculate its actual fuel cost. Disclosure of this information would also impair Citrus' competitive interests by informing its competitors and customers of sensitive pricing terms in its gas supply contracts.
5 6	line 36 through line 3	The redacted information contains sensitive pricing information regarding the price of gas supplied to the New Smyrna Beach Power Project. Disclosure of this information would also impair Citrus' competitive interests by informing its competitors and customers of sensitive pricing terms in its gas supply contracts.
6	16-18	The redacted information contains competitively sensitive terms of the contractual arrangement between Citrus and DEPS, the disclosure of which would impair Citrus' competitive interest by informing its competitors and customers of such terms.
6	25-26	The redacted information is specific information regarding the projected fuel requirements for the now-inoperative power plant project that was to have been developed by a DEPS affiliate and IMC-Agrico on IMC-Agrico's property in south central Florida. The disclosure of this information would impair IMC-

Agrico's competitive interests by disclosing significant aspects of its business.

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|---|-------|---|
| 7 | 10-13 | The redacted information contains competitively sensitive information relating to Duke New Smyrna, and its affiliates', internal operations and business plans. The disclosure of this information would impair Duke New Smyrna's and its affiliates' competitive interest by informing its competitors of same.  |
| 8 | 2-6   | The redacted information is specific information regarding the projected fuel requirements for the now-inoperative power plant project that was to have been developed by a DEPS affiliate and IMC-Agrico on IMC-Agrico's property in south central Florida. The disclosure of this information would impair IMC-Agrico's competitive interests by disclosing significant aspects of its business.  |
| 8 | 17-22 | The redacted information contains sensitive pricing information regarding the price of gas supplied to the New Smyrna Beach Power Project. Disclosure of this information would also impair Citrus' competitive interests by informing its competitors and customers of sensitive pricing terms in its gas supply contracts.  |
| 8 | 24    | The redacted information describes the rights of Duke New Smyrna's affiliate, DEPS, to get deliveries from Citrus. The disclosure of this information would impair both DEPS' and Citrus' competitive interests by enabling their respective competitors to calculate their future capabilities.  |
| 9 | 11-20 | The redacted information contains sensitive pricing information regarding the price of gas supplied to the New Smyrna Beach Power Project. The disclosure of this information would impair Duke New Smyrna's competitive interest by enabling its competitors to calculate its actual fuel cost. Disclosure of this information would also impair Citrus' competitive interests by informing its competitors and customers of sensitive pricing terms |

in its gas supply contracts.

12

2-17

The redacted information contains sensitive pricing information regarding the price of gas supplied to the New Smyrna Beach Power Project. The disclosure of this information would impair Duke New Smyrna's competitive interest by enabling its competitors to calculate its actual fuel cost. Disclosure of this information would also impair Citrus' competitive interests by informing its competitors and customers of sensitive pricing terms in its gas supply contracts.