

September 24, 2001

VIA HAND DELIVERY

Blanca S. Bayó, Director
Records and Reporting
Florida Public Service Commission
4075 Esplanade Way, Room 110
Tallahassee, Florida 32399-0850

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COMMISSION
CLERK

**In re: Fuel and Purchase of Power Cost Recovery Clause
and Generating Incentive Factor - Docket No. 010001-E1**

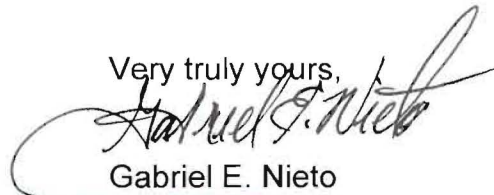
Dear Ms. Bayó:

Enclosed for filing on behalf of Florida Power & Light Company in Docket No. 010001-E1 are the original and ten (10) copies of Florida Power & Light Company's Request for Confidential Classification and a Motion For Protective Order regarding its responses to Staff's First Request for Production of Documents and First Set of Interrogatories. Please note that the original copy of the motion has an Attachment, Exhibit A, which contains CONFIDENTIAL INFORMATION. Therefore, FPL is filing the original motion in a separate envelope stamped CONFIDENTIAL. The remaining copies of the motion do not contain Exhibit A or any other confidential information.

In its motion FPL seeks confidential classification of the confidential information contained in Exhibit A, which is being filed with the Commission today. FPL has enclosed two copies of Exhibit B to its Motion which are redacted versions of the materials in Exhibit A. Please contact me if you require additional copies of Exhibit B.

If you or your staff have any questions regarding this transmittal, please contact me at 305-577-7083.

Very truly yours,



Gabriel E. Nieto

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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

**In re: Fuel and purchased power)
cost recovery clause and)
generating performance incentive)
factor)
_____)**

Docket No. 010001-EI

Filed: September 24, 2001

**FLORIDA POWER & LIGHT COMPANY'S REQUEST
FOR CONFIDENTIAL CLASSIFICATION
AND MOTION FOR PROTECTIVE ORDER**

Pursuant to Section 366.093, Florida Statutes and Rule 25-22.006, Florida Administrative Code ("F.A.C."), Florida Power & Light Company ("FPL") hereby requests confidential classification of certain information responsive to Staff's First Request for Production of Documents and First Set of Interrogatories (hereinafter the "Confidential Information"). FPL further requests that the Commission enter a protective order requiring any person wishing to review the Confidential Information to file a petition to inspect and examine the confidential information pursuant to Rule 25-22.006(7)(a), F.A.C, and requiring that the Confidential Information be returned to FPL at the close of this proceeding and retain confidential status until that time. In support thereof, FPL states:

Justification for Confidential Classification

1. The Confidential Information relates to the operations of FPL's Energy Marketing and Trading Division. It describes confidential and proprietary procedures and systems for the purchase, sale and trading of energy, fuels and financial instruments. The disclosure of such information, which relates to FPL's actions in highly competitive market environments, would obviously impair the competitive business interests of FPL. Additionally, much of the Confidential Information contains customer-specific and vendor-specific information, such as contract prices and other contract related

information. Disclosure of such information would further impair FPL's ability to contract on favorable terms in the future, and could also impair the business interests of FPL's vendors and customers.

2. FPL has prepared four exhibits to this Motion which provide the information and materials required by Rule 25-22.006(4), F.A.C. Exhibit A contains unredacted copies of FPL's responses to Staff's First Request for Production of Documents and First Set of Interrogatories, with all Confidential Information highlighted. Exhibit B is a copy of the same material as Exhibit A, but with the Confidential Information redacted. Exhibit C is a line-by-line justification of the confidential status of the Confidential Information highlighted in Exhibit A. Exhibit D is the affidavit of Gerard Yupp, and explains why the information FPL seeks to prevent from disclosure is confidential.¹

Request for Protective Order

3. In addition to confidential classification, FPL requests that certain protections against disclosure outside of this proceeding be implemented pursuant to Rule 25-22.006(6)(a), F.A.C. Specifically, FPL requests that the Commission enter a protective order requiring any person or persons that wish to review the Confidential Information to first file a petition to inspect and examine the Confidential Information with the Commission pursuant to Rule 25-22.006(7)(a), F.A.C. Requiring parties to make such an application will allow issues relating to any requested review of the Confidential Information to be more fully considered at a later time, in the context of a specific request by a particular party.

¹ Pursuant to Rule 25-22.006(4)(a), F.A.C., FPL has filed with the Commission one copy of Exhibit A and two copies of Exhibit B. Service copies of this Motion contain Exhibits C and D only; Exhibits A and B are not included. However, FPL will provide a copy of Exhibit B to any party upon request.

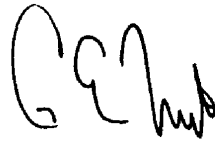
4. FPL further requests that the Commission require the Confidential Information to be returned to FPL at the close of this proceeding. Requiring the return of the Confidential Information at the close of this proceeding is expressly provided for in section 366.093(4), Florida Statutes, and will mitigate the adverse impacts to FPL. Moreover, the Confidential Information will continue to be confidential to FPL for an indefinite period of time. It will still be treated by FPL as confidential as a matter of company policy, and its disclosure would continue to harm FPL's competitive interests long after the 18 month period set forth in section 366.093(4). Therefore, FPL requests that the Commission order, as allowed by Section 366.093, Florida Statutes, that any Confidential Information continue to be classified as confidential for as long as it is held by the Commission or any party to this proceeding.

WHEREFORE, FPL respectfully requests that the Commission (a) rule that the Confidential Information highlighted on Exhibit A hereto be given confidential classification and be exempt from disclosure and (b) enter a protective order (i) requiring any person or persons that wishes to review the Confidential Information to file a petition to inspect and examine the confidential information pursuant to Rule 25-22.006(7)(a), Florida Administrative Code, and (ii) requiring that all materials containing Confidential Information be returned to FPL at the close of this proceeding, and (iii) holding that the confidential classification will continue in effect until all copies of the Confidential Information are returned to FPL.

Respectfully submitted this 24th day of September, 2001.

Respectfully submitted,

STEEL HECTOR & DAVIS LLP
215 South Monroe Street, Suite 601
Tallahassee, Florida 32301-1804
Attorneys for Florida Power
& Light Company



By: _____

Matthew M. Childs, P.A.
Gabriel E. Nieto

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of Florida Power & Light Company's Request for Confidential Classification and Motion for Protective Order has been furnished by Hand Delivery (*), or U S. Mail this 24th day of September, 2001, to the following:

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By: 

Gabriel E. Nieto

Exhibit C

JUSTIFICATION TABLE

EXHIBIT C

COMPANY:
TITLE:
DOCKET:

Florida Power & Light Company
List of Confidential Documents
010001-EI
Staff's First Set of Interrogatories
Staff's First Request for Production of Documents

Description	No. of Pages	Confidential Yes / No	Line No. / Col. No.	Florida Statute 366.093(3) Subsection	Affiant
Interrogatory No. 9		Y	Response	(d) (e)	G. Yupp
Interrogatory No. 14		Y	Response	(d) (e)	G. Yupp
Interrogatory No. 15		Y	Response	(d) (e)	G. Yupp
Interrogatory No. 54 Contract List	5	Y	Att. 1, p.1-5, col. A	(d) (e)	G. Yupp
Interrogatory No. 56 Contract List	4	Y	Att. 1, p.1-4, col. A	(d) (e)	G. Yupp
Interrogatory No. 58 Contract List	1	Y	Att. 1, p.1, col. A, line 1-45; col. E, line 1-32	(d) (e)	G. Yupp
Interrogatory No. 60 Contract List	1	Y	Att. 1, p.1, col. A, line 1-46; col. E, line 1-31	(d) (e)	G. Yupp
Interrogatory No. 78		Y	Response	(d) (e)	G. Yupp
Production of Documents No. 1 Policy and Procedures Manuals	84	Y	All documents in entirety	(d) (e)	G. Yupp
Production of Documents No. 2 Board Mtg. Minutes	3	Y	p.1-3	(d) (e)	G. Yupp
Production of Documents No. 23 Strategy Letter	33	Y	p.1-3	(d) (e)	G. Yupp
Risk Limits			p.16, col. C & D	(d) (e)	G. Yupp
Strategy Papers			p.17-18	(d) (e)	G. Yupp
Position Strategy			p.19, lines 7-28	(d) (e)	G. Yupp
Position Strategy			p.20, lines 3-26	(d) (e)	G. Yupp

EXHIBIT C

COMPANY:
TITLE:
DOCKET:

Florida Power & Light Company
List of Confidential Documents
010001-EI
Staff's First Set of Interrogatories
Staff's First Request for Production of Documents

Description	No. of Pages	Confidential Yes / No	Line No. / Col. No.	Florida Statute 366.093(3) Subsection	Affiant
Production of Documents No. 23 Transaction Detail Documents Transaction Detail Documents	33	Y	p.21,23-33, col. A-H p.22, col. A,C,D,F,G,I, J,L	(d) (e) (d) (e)	G. Yupp G. Yupp
Production of Documents No. 24 Monthly Forecasts Project Proposal	149	Y	p.1-49 p.141-149	(d) (e) (d) (e)	G. Yupp G. Yupp
Production of Documents No. 28 Transaction Detail Documents	8	Y	p.1, col. D, line 2,3,6,8, 12-16,19-20; col. F, line 24	(d) (e)	G. Yupp
Transaction Detail Documents			p.2, line 3,4,7,12,14,22, 24-26	(d) (e)	G. Yupp
Transaction Detail Documents			p.3, col. B, line 4	(d) (e)	G. Yupp
Transaction Detail Documents			p.4, line 2,3,5-45	(d) (e)	G. Yupp
Transaction Detail Documents			p.5, line 1-49	(d) (e)	G. Yupp
Transaction Detail Documents			p.6, line 1-16	(d) (e)	G. Yupp
Transaction Detail Documents			p.7, line 1,2,4-6,17	(d) (e)	G. Yupp
Transaction Detail Documents			p.8, line 8-23	(d) (e)	G. Yupp
Production of Documents No. 30 Daily Management Report	1	Y	p.1, col. A-H	(d) (e)	G. Yupp
Production of Documents No. 32 Daily Management Report	1	Y	p.1, col. A-H	(d) (e)	G. Yupp
Production of Documents No. 33 Daily Management Report	1	Y	p.1, col. A-H	(d) (e)	G. Yupp

Exhibit D

AFFIDAVITS

EXHIBIT D

**BEFORE THE FLORIDA
PUBLIC SERVICE COMMISSION**

In re: Florida Power & Light Company's)
Request for Confidential Classification)
Of Material Provided pursuant to)
Staff's First Request for Production of)
Documents and Staff's First Set of)
Interrogatories)

Docket No. 010001-EI

STATE OF FLORIDA)
)
PALM BEACH COUNTY)

AFFIDAVIT OF GERARD YUPP

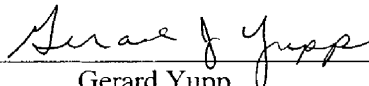
BEFORE ME, the undersigned authority, personally appeared Gerard Yupp, who, being first duly sworn, deposes and says:

1. My name is Gerard Yupp. I am currently employed by Florida Power & Light Company (FPL), Energy Marketing and Trading (EMT) Division, as Manager of Regulated Wholesale Power Trading. I have personal knowledge of the matters stated in this affidavit.

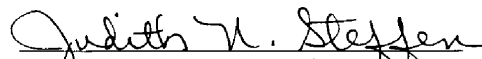
2. With respect to Exhibit C, I have reviewed the documents and information for which I am listed as Affiant and which are included in Exhibit A to FPL's Request for Confidential Classification. Documents or materials that I have reviewed and which are asserted by FPL to be proprietary confidential business information contain or constitute information relating to competitive interests, the disclosure of which may impair the competitive business of the provider of the information. In addition, some of the data included in Exhibit A constitute vendor-specific or customer-specific information including contract prices and other contract-related information. Disclosure of this information may impair FPL's competitive business interests and its ability to contract on favorable terms.

3. Consistent with the provisions of the Florida Administrative Code, such materials should remain confidential for a period of not less than 18 months. In addition, they should be returned to FPL as soon as the information is no longer necessary for the Commission to conduct its business so that FPL can maintain the confidentiality of these documents.

4. Affiant says nothing further.


Gerard Yupp

SWORN TO AND SUBSCRIBED before me this 20th day of September, 2001, by Gerard Yupp, who is personally known to me or who has produced _____ (type of identification) as identification.


Notary Public, State of Florida

My Commission Expires:

