

**ORIGINAL**

**BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

**In re: Review of Florida Power Corporation's Earnings, Including Effects of Proposed Acquisition of Florida Power Corporation by Carolina Power & Light**

DOCKET NO. 000824-EI

Submitted for Filing:  
February 1, 2002

RECEIVED - FPSC  
02 FEB - 1 PM 2:26  
COMMISSION CLERK

**FLORIDA POWER CORPORATION'S  
SECOND REQUEST FOR CONFIDENTIAL CLASSIFICATION**

Florida Power Corporation ("FPC" or "the Company"), pursuant to Section 366.093, *Florida Statutes*, and Rule 25-22.006, F.A.C., requests confidential classification of the highlighted portions of the documents filed under seal on January 11, 2002, with FPC's Second Notice of Intent to Request Classification filed ("the Documents"). Also attached is a Justification Matrix supporting Florida Power's request for confidential classification on a page-by-page, line-by-line basis, and the Affidavit of Mark Myers confirming the basis for this request and the confidential nature of the highlighted information.<sup>1</sup> Fifteen public copies of the Documents, with the confidential information redacted, have been filed with this request. In further support of this request, Florida Power states as follows:

**Introduction**

The Documents were produced pursuant to a temporary protective order in response to the Staff of the Florida Public Service Commission's ("Staff") Sixth Request for Production of

- AUS \_\_\_\_\_
- CAF \_\_\_\_\_
- CMP \_\_\_\_\_
- COM \_\_\_\_\_
- CTR \_\_\_\_\_
- ECR \_\_\_\_\_
- GCL \_\_\_\_\_
- OPC \_\_\_\_\_
- MMS \_\_\_\_\_
- SEC \_\_\_\_\_
- OTH \_\_\_\_\_

The Documents include a CD that contains several voluminous Excel spreadsheets, each of which is confidential in its entirety. The spreadsheets were produced in electronic form at Staff's request because of the volume of the documents. Because it is physically impracticable to print and highlight every page of each spreadsheet, they will be referred to in this request and in the Justification Matrix by filename and should be classified as confidential in their entirety.

RECEIVED & FILED  
*R M*  
FPSC-BUREAU OF RECORDS

DOCUMENT NUMBER-DATE  
**01281 FEB-18**  
FPSC-COMMISSION CLERK

Documents. The information for which confidential classification is sought has not been made public and generally falls into one of the following categories:

1. Confidential information about wholesale customer load demands, which was provided to FPC with the understanding that it would be kept confidential and which, if disclosed, would give competitors confidential and proprietary information about the Company's customers.

2. Proprietary economic information that was purchased from a research firm pursuant to a contract that requires FPC to maintain the confidentiality of the information.

The confidentiality of this information is protected by Section 366.093, *Florida Statutes*, and Rule 25-22.006, F. A. C. The statute generally defines "proprietary confidential business information" to include information that, if disclosed, "would cause harm to the ratepayers or the...company's business operations...." § 366.093(3), *Fla. Stat.* Without limiting this broad definition, the statute specifically protects against disclosure of "[i]nformation relating to competitive interests, the disclosure of which would impair the competitive business of the provider of the information." § 366.093(3)(e), *Fla. Stat.* All of the information highlighted on the Documents falls into one or both of these categories and thus constitutes "proprietary confidential business information" that is protected from public disclosure.

#### Confidential Customer Information

FPC requests confidential classification of the spreadsheets contained on the previously produced CD (identified by filenames Staff\_POD\_43.xls, Staff\_POD\_44b.xls, and Staff\_POD\_44cd.xls) and other documents outlined in the attached Justification Matrix that contain confidential customer information. The documents and spreadsheets contain information about load demands for FPC's wholesale customers that is not publicly available and which is

provided to FPC by its customers with the understanding that the information will be kept confidential.

FPC uses the data contained in the documents and spreadsheets to anticipate the load demands of its wholesale customers. This enables the Company to better plan for times of unusually high load demand and provide more reliable service.

If this data is disclosed to competitors of the customers that provide the information, competitors could infer the customers' production schedules and use that information to their competitive advantage. This would impair the competitive business of the provider of the information and is thus protected under Subsection 366.093(3)(e), *Fla. Stat.*

Public disclosure of this information also would undermine FPC's ability to obtain the information in the future, since wholesale customers will not provide this data if they know it may become public record. Without this information, FPC's ability to anticipate the cyclical needs of its customers would be severely impaired and the quality of service it would be able to provide to those customers would suffer. Because disclosure of the information would harm the ratepayers and the Company's business operations, it should be classified as confidential pursuant to Subsection 366.093(3), *Fla. Stat.*

#### Third Party Proprietary Information

FPC also requests confidential classification for the documents outlined in the attached Justification Matrix that were purchased from WEFA. These documents contain proprietary information developed by WEFA which it sells pursuant to an agreement that requires the information to be kept confidential. The information is not public and FPC has treated this information as confidential.

Public disclosure of this proprietary information would harm FPC most directly by potentially exposing it to liability for breach of contract. Because disclosure would harm the Company's business operations, the information should be classified as confidential pursuant to Subsection 366.093(3), *Fla. Stat.*

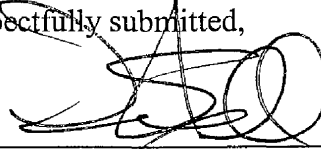
Disclosure of this information would also impair WEFA's competitive interests, since the data would lose its proprietary value if it were to become public record. The information is thus protected by Subsection 366.093(3)(e), *Fla. Stat.*

Public disclosure of this information also would undermine FPC's ability to obtain the information in the future, since WEFA understandably may refuse to provide proprietary data to FPC if that data could become public record and thus be available for free to anyone. FPC routinely uses economic data developed by WEFA in its business operations, and not having access to that information would harm the Company's business operations. The information thus should be classified as confidential pursuant to Subsection 366.093(3), *Fla. Stat.*

### **Conclusion**

For the reasons set forth above and in the attached Justification Matrix, Florida Power respectfully requests confidential classification of the highlighted portions of the documents and all files on the CD contained in the sealed envelope attached to FPC's second notice filed on January 11, 2002.

Respectfully submitted,



James A. McGee  
FLORIDA POWER CORPORATION  
Post Office Box 14042  
St. Petersburg, FL 33733-4042  
Telephone: (727) 820-5184  
Facsimile: (727) 820-5519

Gary L. Sasso  
James Michael Walls  
Jill H. Bowman  
W. Douglas Hall  
CARLTON FIELDS, P. A.  
Post Office Box 2861  
St. Petersburg, FL 33731  
Telephone: (727) 821-7000  
Facsimile: (727) 822-3768  
Attorneys for Florida Power Corporation

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true copy of foregoing has been furnished via hand delivery  
(where indicated by \*) and via U.S. Mail to the following this 1st day of February, 2002.

Mary Anne Helton, Esquire \*\*  
Adrienne Vining, Esquire  
Bureau Chief, Electric and Gas  
Division of Legal Services  
Public Service Commission  
2540 Shumard Oak Blvd.  
Tallahassee, FL 32399-0850  
Phone: (850) 413-6096  
Fax: (850) 413-6250  
Email: [mhelton@psc.state.fl.us](mailto:mhelton@psc.state.fl.us)

Jack Shreve, Esquire  
Public Counsel  
John Roger Howe, Esquire  
Charles J. Beck, Esquire  
Deputy Public Counsel  
Office of Public Counsel  
c/o The Florida Legislature  
111 West Madison St., Room 812  
Tallahassee, FL 32399-1400  
Phone: (850) 488-9330  
Attorneys for the Citizens of the State of  
Florida

Daniel E. Frank  
Sutherland Asbill & Brennan LLP  
1275 Pennsylvania Avenue, N.W.  
Washington, D.C. 20004-2415  
Telephone: (202) 383-0838  
Counsel for Walt Disney World Co.

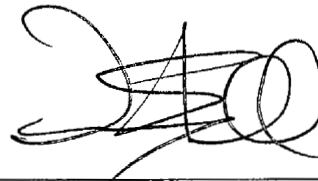
Russell S. Kent, Esq.  
Sutherland Asbill & Brennan LLP  
2282 Killlearn Center Blvd.  
Tallahassee, FL 32308-3561  
Telephone: (850) 894-0015  
Counsel for Walt Disney World Co.

Thomas A. Cloud, Esq.  
Gray, Harris & Robinson, P.A.  
301 East Pine Street, Ste. 1400  
P.O. Box 3068  
Orlando, FL 32801  
Phone: (407) 244-5624  
Fax: (407) 244-5690  
Attorneys for Publix Super Markets, Inc.

Joseph A. McGlothlin, Esquire  
Vicki Gordon Kaufman, Esquire  
McWhirter, Reeves, McGlothlin, Davidson,  
Decker, Kaufman, Arnold & Steen, P.A.  
117 South Gadsden  
Tallahassee, FL 32301  
Telephone: (850) 222-2525  
Fax: (85) 222-5606  
Counsel for Florida Industrial Power Users  
Group and Reliant Energy Power Generation,  
Inc.

John W. McWhirter, Jr., Esquire  
McWhirter, Reeves, McGlothlin, Davidson,  
Decker, Kaufman, Arnold & Steen, P.A.  
400 North Tampa Street, Suite 2450  
Tampa, FL 33601-3350  
Telephone: (813) 224-0866  
Fax: (813) 221-1854  
Counsel for Florida Industrial Power Users  
Group

Michael B. Twomey, Esq.  
8903 Crawfordville Road (32305)  
P.O. Box 5256  
Tallahassee, FL 32314-5256  
Phone: (850) 421-9530  
Fax: (850) 421-8543  
Counsel for Sugarmill Woods Civic  
Association, Inc. and Buddy L. Hansen



---

Attorney

### JUSTIFICATION MATRIX

Bates Number of Document	Row	Column	Justification for Second Request For Confidential Classification
STAFF6 48-49	All	All	<p>Proprietary economic information purchased from WEFA pursuant to a contract that requires FPC to keep the information confidential. Disclosure could potentially expose FPC to liability for breach of contract. Disclosure would also harm WEFA's competitive interests, since the proprietary information would lose its value if it becomes public record. Disclosure would also undermine FPC's ability to obtain the information in the future and thus impair its business operations. The information is protected by Subsection 366.093(3) (harm to the Company's business operations) and Subsection 366.093(3)(e) (harm to competitive interests).</p>
STAFF6 50-53	All	All	<p>Proprietary economic information purchased from WEFA pursuant to a contract that requires FPC to keep the information confidential. Disclosure could potentially expose FPC to liability for breach of contract. Disclosure would also harm WEFA's competitive interests, since the proprietary information would lose its value if it becomes public record. Disclosure would also undermine FPC's ability to obtain the information in the future and thus impair its business operations. The information is protected by Subsection 366.093(3) (harm to the Company's business operations) and Subsection 366.093(3)(e) (harm to competitive interests).</p>
STAFF6 55	All	All	<p>Proprietary economic information purchased from WEFA pursuant to a contract that requires FPC to keep the information confidential. Disclosure could potentially expose FPC to liability for breach of contract. Disclosure would also harm WEFA's competitive interests, since the proprietary information would lose its value if it becomes public record. Disclosure would also undermine FPC's ability to obtain the information in the future and thus impair its business operations. The information is protected by Subsection 366.093(3)</p>

			(harm to the Company's business operations) and Subsection 366.093(3)(e) (harm to competitive interests).
STAFF6 57	All	All	Proprietary economic information purchased from WEFA pursuant to a contract that requires FPC to keep the information confidential. Disclosure could potentially expose FPC to liability for breach of contract. Disclosure would also harm WEFA's competitive interests, since the proprietary information would lose its value if it becomes public record. Disclosure would also undermine FPC's ability to obtain the information in the future and thus impair its business operations. The information is protected by Subsection 366.093(3) (harm to the Company's business operations) and Subsection 366.093(3)(e) (harm to competitive interests).
STAFF6 59	All	All	Proprietary economic information purchased from WEFA pursuant to a contract that requires FPC to keep the information confidential. Disclosure could potentially expose FPC to liability for breach of contract. Disclosure would also harm WEFA's competitive interests, since the proprietary information would lose its value if it becomes public record. Disclosure would also undermine FPC's ability to obtain the information in the future and thus impair its business operations. The information is protected by Subsection 366.093(3) (harm to the Company's business operations) and Subsection 366.093(3)(e) (harm to competitive interests).
STAFF6 61	All	All	Proprietary economic information purchased from WEFA pursuant to a contract that requires FPC to keep the information confidential. Disclosure could potentially expose FPC to liability for breach of contract. Disclosure would also harm WEFA's competitive interests, since the proprietary information would lose its value if it becomes public record. Disclosure would also undermine FPC's ability to obtain the information in the future and thus impair its business operations. The information is protected by Subsection 366.093(3) (harm to the Company's business operations) and Subsection 366.093(3)(e) (harm to competitive interests).



STAFF6 63	All	All	Proprietary economic information purchased from WEFA pursuant to a contract that requires FPC to keep the information confidential. Disclosure could potentially expose FPC to liability for breach of contract. Disclosure would also harm WEFA's competitive interests, since the proprietary information would lose its value if it becomes public record. Disclosure would also undermine FPC's ability to obtain the information in the future and thus impair its business operations. The information is protected by Subsection 366.093(3) (harm to the Company's business operations) and Subsection 366.093(3)(e) (harm to competitive interests).
STAFF6 65	All	All	Proprietary economic information purchased from WEFA pursuant to a contract that requires FPC to keep the information confidential. Disclosure could potentially expose FPC to liability for breach of contract. Disclosure would also harm WEFA's competitive interests, since the proprietary information would lose its value if it becomes public record. Disclosure would also undermine FPC's ability to obtain the information in the future and thus impair its business operations. The information is protected by Subsection 366.093(3) (harm to the Company's business operations) and Subsection 366.093(3)(e) (harm to competitive interests).
STAFF6 70-71	All	All	Data concerning forecasted energy usage for FPC's phosphate customers. Disclosure would enable competitors of FPC's customers to infer information about the customers' production schedules and usage patterns. Disclosure would also undermine FPC's ability to obtain this information in the future and would thus impair its ability to anticipate cyclical load demands and usage patterns of phosphate customers. The information is protected by Subsection 366.093(3) (harm to the Company's business operations) and Subsection 366.093(3)(e) (harm to competitive interests).
STAFF6 76	All	All	Proprietary economic information purchased from WEFA pursuant to a contract that requires FPC to keep the information confidential. Disclosure could potentially expose FPC to liability for breach of

			contract. Disclosure would also harm WEFA's competitive interests, since the proprietary information would lose its value if it becomes public record. Disclosure would also undermine FPC's ability to obtain the information in the future and thus impair its business operations. The information is protected by Subsection 366.093(3) (harm to the Company's business operations) and Subsection 366.093(3)(e) (harm to competitive interests).
Staff_POD_43.xls (CD File)	All	All	Data concerning load demands of FPC's wholesale customers. Disclosure would enable competitors of FPC's customers to infer information about the customers' production schedules. Disclosure would also undermine FPC's ability to obtain this information in the future and would thus impair its ability to anticipate cyclical load demands of wholesale customers. The information is protected by Subsection 366.093(3) (harm to the Company's business operations) and Subsection 366.093(3)(e) (harm to competitive interests).
Staff_POD_44b.xls (CD File)	All	All	Data concerning load demands of FPC's wholesale customers. Disclosure would enable competitors of FPC's customers to infer information about the customers' production schedules. Disclosure would also undermine FPC's ability to obtain this information in the future and would thus impair its ability to anticipate cyclical load demands of wholesale customers. The information is protected by Subsection 366.093(3) (harm to the Company's business operations) and Subsection 366.093(3)(e) (harm to competitive interests).
Staff_POD_44cd.xls (CD File)	All	All	Data concerning load demands of FPC's wholesale customers. Disclosure would enable competitors of FPC's customers to infer information about the customers' production schedules. Disclosure would also undermine FPC's ability to obtain this information in the future and would thus impair its ability to anticipate cyclical load demands of wholesale customers. The information is protected by Subsection 366.093(3) (harm to the Company's business operations) and Subsection 366.093(3)(e) (harm to competitive interests).

**BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

---

**In re: Review of Florida Power  
Corporation's Earnings, Including Effects  
of Proposed Acquisition of Florida Power  
Corporation by Carolina Power & Light**

---

DOCKET NO. 000824-EI

Submitted for Filing:  
February 1, 2002**AFFIDAVIT OF MARK A. MYERS**

**STATE OF FLORIDA  
COUNTY OF PINELLAS**

I, Mark A. Myers, having first been duly sworn, do hereby state as follows:

1. My name is Mark A. Myers. I am employed by Florida Power Corporation ("Florida Power" or "the Company") as Vice President of Finance. The facts stated in this affidavit are based upon my personal knowledge.
2. I have reviewed the Request for Confidential Classification and Justification Matrix to which this affidavit is attached. The confidential information identified in the Request and Justification Matrix is intended to be confidential and is treated by Florida Power and its related companies as confidential. None of the confidential information has been publicly disclosed.
3. Public disclosure of the confidential information would harm the Company and its ratepayers and would impair the Company's competitive interests. The Request for Confidential Classification and the Justification Matrix accurately describe the harm to the Company and its ratepayers that would be caused by public disclosure of the confidential information.
4. The Documents, including spreadsheets produced on a CD and identified by filename in the Justification Matrix, contain information about load demands for FPC's wholesale customers that is not publicly available and which is provided to FPC by its wholesale

customers with the understanding that the information will be kept confidential. FPC uses the data contained in the documents and spreadsheets to anticipate the load demands of its customers. This enables the Company to better plan for times of unusually high load demand and provide more reliable service. If this data is disclosed to competitors of the customers that provide the information, competitors could infer the customers' production schedules and use that information to their competitive advantage. This would impair the competitive business of the providers of the information.

5. Public disclosure of this information also would undermine FPC's ability to obtain the information in the future, since wholesale customers will not provide this data if they know it may become public record. Without this information, FPC's ability to anticipate the cyclical needs of its customers would be severely impaired and the quality of service it would be able to provide to those customers would suffer. Disclosure of the information would harm the ratepayers and the Company's business operations.

6. The Documents outlined in the attached Justification Matrix also contain proprietary information developed by WEFA which it sells pursuant to an agreement that requires the information to be kept confidential. The information is not public and FPC has treated this information as confidential.

7. Public disclosure of this proprietary information would harm FPC most directly by potentially exposing it to liability for breach of contract, and thus, such disclosure would harm the Company's business operations.

8. Disclosure of this information would also impair WEFA's competitive interests, since the data would lose its proprietary value if it were to become public record.

9. Public disclosure of this information also would undermine FPC's ability to obtain the information in the future, since WEFA understandably may refuse to provide proprietary data to FPC if that data could become public record and thus be available for free to anyone. FPC routinely uses economic data developed by WEFA in its business operations, and not having access to that information would harm the Company's business operations.

10. For all of these reasons, the information should be kept confidential to avoid harm to the Company and its ratepayers.

This concludes my affidavit.

  
MARK A. MYERS

Sworn to and subscribed before me this 1st day of FEBRUARY, 2002, by Mark A. Myers, who is personally known to me or who has produced \_\_\_\_\_ as identification.

Anne M. Sheloski  
NOTARY PUBLIC

ANNE M. SHELOSKI  
Type or Print Name

My Commission Expires: \_\_\_\_\_



Anne M. Sheloski  
MY COMMISSION # CC725907 EXPIRES  
April 12, 2002  
BONDED THRU TROY FAIN INSURANCE, INC.