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February 21, 2002

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Blanca S. Bayó, Director  
Division of the Commission Clerk  
and Administrative Services  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, Florida 32399-0850

**By Hand Delivery**

**Re: Docket No. 001148-EI**

Dear Ms. Bayó:

Enclosed for filing on behalf of Florida Power & Light Company ("FPL") are the original and seven (7) copies of FPL's Motion for Temporary Protective Order Concerning Public Counsel's Fifth Request for Production of Documents (Nos. 130,132, 148 and 150) and Public Counsel's Fourth Set of Interrogatories (No. 59(g)).

If you or your staff have any questions regarding this transmittal, please contact me at 222-2300.

Very truly yours,

*Charles A. Guyton/ECG*  
Charles A. Guyton

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Enclosure  
cc: Counsel for Parties of Record

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**BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

In re: Review of the retail rates of  
Florida Power & Light Company.  
\_\_\_\_\_ )

) Docket No. 001148-EI  
) Dated: February 21, 2002  
)

**FLORIDA POWER & LIGHT COMPANY'S MOTION FOR TEMPORARY  
PROTECTIVE ORDER CONCERNING PUBLIC COUNSEL'S FIFTH REQUEST  
FOR PRODUCTION OF DOCUMENTS (NOS. 130, 132, 148 & 150) AND PUBLIC  
COUNSEL'S FOURTH SET OF INTERROGATORIES (NO. 59(g))**

Florida Power & Light Company ("FPL"), pursuant to Section 366.093, Florida Statutes and Rule 25-22.006, F.A.C., hereby moves for the entry of a temporary protective order covering certain documents sought by the Office of Public Counsel ("OPC") in response to OPC's Fifth Request for Production of Documents (the "Fifth Production Request") and OPC's Fourth Set of Interrogatories. In support of its motion, FPL states as follows:

1. On February 1, 2002, OPC served its Fifth Production Request on FPL. Certain of the documents responsive to the Fifth Production Request are confidential. These include some of the documents being provided in response to Request Nos. 130, 132, 148 & 150.

2. The documents responsive to Request No. 148 are proprietary business information, because they contain information that is proprietary to Florida Power Corporation ("FPC"). Request No. 148 asks for forecasts and analyses conducted by one of FPL's witnesses, Dr. McMenamin, over the past three years for Florida's investor-owned utilities. Dr. McMenamin has developed a short-term forecasting model for FPC within the last three years. This model is proprietary to FPC. FPC has requested that this information not be disclosed unless protected by the Commission as specified confidential information.

3. The documents responsive to Request Nos. 130, 132, and 150 contain customer specific information. In turn, some of this customer specific information is competitively sensitive to customers. FPL has a policy not to disclose customer specific information and to treat it as confidential information. The Commission has previously recognized that customer specific information is confidential and should be protected.

4. The response to Public Counsel's Fourth Set of Interrogatories, Interrogatory No. 59(g) is confidential. Interrogatory 59(g) asks for a detailed description of an entry on an earlier discovery request. The disclosure of this information would damage FPL's ability to resolve litigation, to the detriment of its customers.

5. Section 366.093(2), Florida Statutes and Rule 25-22.006(6), F.A.C., direct that all information produced pursuant to a discovery request for which proprietary confidential status has been sought shall be treated by OPC as confidential and shall be exempt from section 119.07(1), Florida Statutes, while OPC determines whether it will use the information in a Commission proceeding. Moreover, in ruling on motions for temporary protective orders in Gulf Power Company's rate proceeding, the Commission recently commented on the procedure to be followed in the event that OPC decides to use confidential information in the proceeding: "If the information is used in the proceeding, it will be treated as confidential as set forth in this Order. In order to maintain continued confidentiality, Gulf shall file a Request for Confidential Classification with the Commission within 21 days of the conclusion of the hearing, pursuant to Rule 25-22.006(8)(b), Florida Administrative Code." Order No. PSC-01-2392-PCO-EI, Docket No. 010949-EI. FPL is by this motion seeking protection of the above-referenced documents as provided in section 366.093(2), Rule 25-22.006(6) and Order No. PSC-01-2392-PCO-EI. FPL

has recorded the appropriate objections to producing such confidential, proprietary business information, but will produce the documents to OPC marked as confidential subject to this motion, the above-cited law, rule and order, and its objections. By following this procedure, FPL is not waiving its rights to seek further relief as necessary to make certain that its confidential, proprietary business information is not publicly disclosed.

WHEREFORE, FPL moves the Commission to enter an order granting its motion for temporary protective order relating to documents identified as confidential that are produced in response to OPC's Fifth Production Request and OPC's Fourth Set of Interrogatories, instructing OPC to continue to treat those documents as confidential, and requiring OPC to provide FPL notice of its intent to use such confidential documents as required in Order No. PSC-01-211-PCO-EI, the order establishing procedure for this docket.

Respectfully submitted,

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By: Charles A. Guyton /ECD  
Charles A. Guyton

## CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by hand delivery (\*) or United States Mail this 21st day of February, 2002, to the following:

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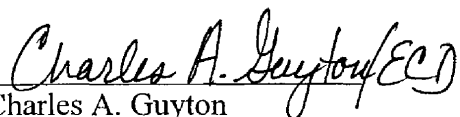
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