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July 26, 2002

VIA FEDERAL EXPRESS

Clerk
Supreme Court of Florida
500 South Duval Street
Tallahassee, FL 32399

Re: *South Florida Hospital and Healthcare Association, et al. v.
Lila A. Jaber, et al.*, Case No. SC02-1023

Dear Sir or Madam:

On July 22, 2002, the South Florida Hospital & Healthcare Association, *et al.* ("Appellants") filed, on behalf of Florida Power & Light Company, an intervenor in the case, a Motion For Confidential Treatment. It has come to our attention that inadvertently the Motion contained two sets of paragraphs numbered 5 and 6. Enclosed herewith is a corrected copy of the Motion. We apologize for any inconvenience this has caused.

Respectfully submitted,



Kenneth L. Wiseman
Attorney for
South Florida Hospital and Healthcare
Association

Enclosure

cc: Parties of Record

- AUS _____
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IN THE SUPREME COURT OF FLORIDA

South Florida Hospital and Healthcare Association, et al)
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 Appellants,)
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 v.)
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 Lila A Jaber, et al.)
)
 Appellees)

Case No. SC02-1023

On Appeal From
Florida Public Service Commission
Docket No. 001148-EI

MOTION FOR CONFIDENTIAL TREATMENT

Pursuant to Rule 9.300, Appellants, South Florida Hospital and Healthcare Association, et al. request, on behalf of, Florida Power & Light Company (“FPL”), an intervenor in this case, that the Court afford confidential treatment to a document that is part of the administrative record and which was treated on a confidential basis in the underlying proceedings before the Florida Public Service Commission (“Commission”). In support hereof, Appellants state as follows:

1. The appeal in this case arises from a proceeding before the Commission to review FPL’s retail rates.

2. In the course of that proceeding, Appellants and FPL entered into an agreement concerning FPL’s production of documents that FPL claimed contained confidential, commercially-sensitive information (“Confidentiality Agreement”). The agreement provided, *inter alia*, that, under certain circumstances, FPL would produce to Appellants documents FPL deemed to contain confidential information. The agreement further provided for procedures to be used to maintain the confidentiality of the documents in the event that Appellants determined to place any of the documents, or the information therein, in the record before the Commission.

3. The prepared written direct testimony of Appellants' expert witness, Mr. Lane Kollen, referred to certain information claimed by FPL as confidential and which had been provided pursuant to the Confidentiality Agreement. Therefore, consistent with the agreement, when Appellants filed the prepared testimony with the Commission, they filed two versions – a redacted version that was publicly available and an unredacted version that was submitted to the Commission in a sealed envelope. Pursuant to the Confidentiality Agreement, Appellants asked the Commission to treat the unredacted version on a confidential basis, and to date, the Commission has done so.

4. Appellants' initial brief in this case refers to the unredacted, confidential version of Mr. Kollen's testimony but does not disclose the confidential information ("Confidential Information"). Appellants desire, however, that the Court have access to, and be afforded the opportunity to review, the Confidential Information which Appellants believe is important to a decision in this case. As such, Appellants noted in their letter transmitting their initial brief to the Court that they would discuss with counsel for FPL procedures to follow so that Appellants could include the Confidential Information in an appendix to their initial brief.

5. It is the intent of the Appellants that the Court and the parties to the appeal have full access and be able to refer to the Confidential Information to the extent necessary but without publicly disclosing the Confidential Information. To that end, the Appellants propose the following parameters of for the treatment of the confidential information:

(a) As to Briefs and Other Written Submissions to the Court. Any necessary reference to the Confidential Information should be made in a manner that specifically references the record cite of the Confidential Information (including internal page number of the testimony)

of the unredacted, confidential version of Mr. Kollen's testimony, but does not actually disclose the substance of the Confidential Information.

(b) As to Oral Argument. Any reference to the Confidential Information during oral argument likewise should be made in a manner that does not disclose the substance of the confidential information, but which allows the Court to inquire and any party to present argument and respond to questions from the Court that may relate to the Confidential Information. Any reference to specifics about the Confidential Information should be made by specific reference to the record cite of the Confidential Information (including internal page number of the testimony).

6. Utilizing the above parameters with respect to all written and oral communications concerning the Confidential Information will enable the Court and the parties to effectively communicate to the extent necessary concerning the Confidential Information. These parameters represent the parties' best efforts to devise a means of protecting such information from public disclosure while at the same time minimizing any inconvenience to the Court and the parties. Of course, if the Court has an accepted or preferred method for accomplishing the same result, the parties defer to that method.

7. Appellants are submitting herewith in sealed envelopes eight copies of the unredacted, confidential version of Mr. Kollen's testimony as Appendix D to Appellants' initial brief. Appellants have filed the information in this way because of FPL's contention that the materials are confidential and commercially-sensitive. Appellants, on behalf of FPL, thus request that the Court treat the enclosures as confidential, not subject to public disclosure.

8. Counsel for Appellants has conferred with counsel for FPL and is authorized to state that FPL supports this motion.

WHEREFORE, for the reasons discussed above, Appellants request that Appendix D to Appellants' initial brief be treated on a confidential basis as requested herein.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'M. Sundback', written over a horizontal line.

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July 22, 2002

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was furnished by
United States mail this 22nd day of July, 2002 to the following parties of record:


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