State of Florida





Hublic Service Commission -M-E-M-O-R-A-N-D-U-M-

DATE: August 2, 2002

TO: Office of the General Counsel (Keating)

FROM: Division of Economic Regulation (McNulty) WBM

RE: Docket No. 011605-EI, Document No. 07466-02

On July 18, 2002, Florida Power and Light Company (FPL) filed a request for confidential classification for its response to interrogatory numbers 14, 16, and 18 of Staff's Second Set of Interrogatories and document numbers 3, 8, 9, 10, and 12 of Staff's Second Request for Production of Documents. These materials were assigned Document No. 07466-02. FPL provided statutory justification for their request, citing Chapter 366.093(3) and (3)(a). FPL indicated that this statute entitles the utility to confidential classification of the information based on the assertion that the materials contain trade secrets which would impair FPL's ability to negotiate, thus causing harm to FPL and its customers.

I have reviewed the information submitted by the utility. My recommendation is that the Company be granted confidential status for all of the material cited in the request except for certain portions of the requested material provided in response to Staff's Second Request of Production of Documents, Question No. 3. For the selected material that I recommend approval of confidential status, I make such recommendation upon the definition of proprietary information included in Chapter 366.093(3)(d) and (e) rather than Chapter 366.093(3)(a). I do not believe the referenced materials are trade secrets. Instead, I believe the requested information described above should be granted confidentiality based upon the harm that the utility would incur in terms of its ability to contract for goods and services on favorable terms as well as the harm that would result to its competitive interests.

The section entitled "Appendix C - Glossary", including all related material on Bate Stamp 00100026HD through 00100029HD, are definitions that are widely used in the industry and can no way be considered proprietary or confidential. I recommend the material so described not be granted confidential status because it does not fit any part of the definition of proprietary information identified in Chapter 366.093(3).

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