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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for Determination)
of Need of Hines Unit 3 Power)
Plant)
_____)

DOCKET NO. 020953-EI

Submitted for filing: September 4, 2002

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**FLORIDA POWER'S FIRST REQUEST
FOR CONFIDENTIAL CLASSIFICATION**

Florida Power Corporation ("Florida Power" or the "Company"), pursuant Section 366.093, Fla. Stat., and Rule 25-22.006, F.A.C., requests confidential classification of the redacted portion of appendix J to the Need Study, which contains the detailed description of the proposals Florida Power received in response the Company's Request for Proposals issued on November 26, 2001, pursuant to Rule 25-22.082, F.A.C., and some comments by Florida Power on the proposals. The unredacted appendix is being filed under seal with the Commission on a confidential basis because the bidders who submitted the proposals in response to the Company's RFP asked the Company to keep the information in the appendix confidential by declaring that the terms of their proposals were confidential.

Introduction

In its RFP, Florida Power provided for the confidentiality of the bids it received in response to the RFP (along with any other information provided by the bidders during the course of the Company's evaluation process). Specifically, the RFP provided that:

The bidders should mark all confidential and proprietary information contained in the proposals as "Confidential." While Florida Power will use its best efforts to protect the confidentiality of such information and only release such information to the members of the evaluation team, management, agents and contractors, and as necessary and consistent with applicable laws and regulations, to its affiliates and regulatory commissions, in no event shall Florida Power be liable to a Bidder for any damages of whatsoever kind resulting from Florida Power's failure to

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protect the confidentiality of Bidder's information. By submitting a proposal, the Bidder agrees to allow Florida Power to use the results of the RFP as evidence in any proceeding before the Florida Public Service Commission (FPSC). To the extent Florida Power wishes to use information that a Bidder considers confidential, Florida Power will petition the Commission to treat such information as confidential and to limit its dissemination, but Florida Power makes no assurance of the outcome of any such petition.

Florida Power's RFP was issued on November 26, 2001 and a deadline of February 12, 2002 for the submittal of bids in response to the RFP. Seven bidders submitted proposals for Florida Power's consideration. All of the bidders requested confidential treatment for the terms of their proposals as private and confidential information, and the Company has not disclosed the bids to the public.

The Confidentiality of the Bids

Subsection 366.093(1) provides that "any records received by the Commission which are shown and found by the Commission to be proprietary confidential business information shall be kept confidential and shall be exempt from [the Public Records Act]. Proprietary confidential business information means information that is (i) intended to be and is treated as private confidential information by the Company, (ii) because disclosure of the information would cause harm, (iii) either to the Company's ratepayers or the Company's business operation, and (iv) the information has not been voluntarily disclosed to the public. § 366.093(3), Fla. Stats. Specifically, "information concerning bids" the "disclosure of which would impair the efforts of the public utility or its affiliates to contract for goods or services on favorable terms" is defined as proprietary confidential business information. § 366.093(3)(d), Fla. Stat.

The terms of the bidders' proposals in response to the Company's RFP fit the statutory definition of proprietary confidential business information. Accordingly, the detailed description of the proposals (and Florida Power's evaluation and explanation of their confidential terms), are entitled to protection 366.093 and Rule 25-22.006.

The very purpose of the RFP was to obtain potentially favorable contract terms for supply-side alternatives to the Company's next-planned generating unit -- the Hines 3 combined cycle unit -- to provide the 582 megawatts ("MW") (winter rating) of capacity required to meet Florida Power's reliability need in the winter of 2005/06. The RFP was issued pursuant to the Commission's "bid rule," which is intended to provide a procedure under which a utility can "solicit and screen, for subsequent contract negotiations, competitive proposals for supply-side alternatives to the utility's next planned generating unit." Rule 25-22.082(1)(b), F.A.C.

[emphasis supplied]. Through its RFP, Florida Power endeavored to attract all proposals that might offer lower cost supply-side resources or provide more economic value to Florida Power and its ratepayers than its next-planned generating unit.

In order to obtain such proposals, however, Florida Power must be able to assure potential bidders that the terms of their bids will be kept confidential. To this end, Florida Power included a confidentiality provision in its RFP (as stated above). The purpose behind including that confidentiality provision in the RFP was to provide bidders the assurance that the terms of their bids would be kept confidential and would not be publicly disclosed.

If such assurances are not provided, and potential bidders know that the terms of their bids are subject to public disclosure, they might withhold sensitive engineering, construction, cost, or other information necessary for the utility to fully understand and accurately assess the costs and benefits of their proposals. Or, persons or companies who otherwise would have

submitted bids in response to the utility's RFP might decide not to do so, if there is no assurance that their proposals would be protected from disclosure. (Affidavit of Daniel J. Roeder, ¶ 5). In either case, without the assurance of confidentiality for the terms of the bids received in response to an RFP, the utility's "efforts ... to contract for goods or services on favorable terms" will be impaired. §366.093, Fla. Stats.

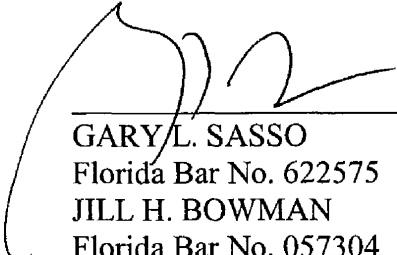
For all these reasons, Florida Power declared its intent in its RFP to keep the terms of the bidders' proposals in response to the RFP confidential. Florida Power has treated the bids it received as confidential. (Affidavit of Daniel J. Roeder, ¶ 6). Upon receipt of the proposals, strict procedures were established and followed to maintain the confidentiality of the proposals, including restricting access to those persons who needed the information to assist the Company in its evaluation of the proposals and restricting the number of, and access to, copies of them. Id. At no time since receiving the bids has the Company publicly disclosed the terms of the proposals, even to the other bidders. Id. The Company has treated and continues to treat the bidders' proposals as confidential. Id.

Attachment A hereto contains a justification matrix supporting Florida Power's request for confidential classification of the highlighted information in the confidential appendix J to the Need Study submitted with Florida Power's Notice of Intent to Request Confidential Classification filed herewith. The confidential information is identified by appendix number, page, and/or line, where appropriate (for example, in place of certain pages in the confidential appendix which would contain virtually nothing but blank pages if the information the bidders requested Florida Power to keep confidential was redacted, Florida Power has included a statement explaining the breadth of the confidential classification).

WHEREFORE, Florida Power respectfully requests that the confidential appendix to the Need Study be classified as confidential for the reasons set forth above.

Respectfully submitted this 4th day of September, 2002.

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ATTACHMENT A

| DOCUMENTS | PAGE/LINE | JUSTIFICATION |
|------------------------------|---|---|
| Appendix J to Need Study | Pages 1-6 (excluding header and text lines 1-4 on page 1) | § 366.093(3)(d) This is detailed information largely quoted directly from Bidders A-G's proposals in response to the Request for Proposal ("RFP") issued by Florida Power on November 26, 2001, the disclosure of which would impair the utilities efforts to contract for such services on favorable terms. |
| Appendix J to the Need Study | Columns 1-10 of the Table on page 7 containing Bidder A's price proposal summary and related notes. | § 366.093(3)(d) This is detailed pricing information provided by Bidder A in response to the RFP issued by Florida Power on November 26, 2001, the disclosure of which would impair the utilities efforts to contract for such services on favorable terms. |
| Appendix J to the Need Study | Columns 1-6 of the Table on page 8 containing Bidder B's (System) price proposal summary and related notes. | § 366.093(3)(d) This is detailed pricing information provided by Bidder B in response to the RFP issued by Florida Power on November 26, 2001, the disclosure of which would impair the utilities efforts to contract for such services on favorable terms. |
| Appendix J to the Need Study | Columns 1-6 of the Table on page 9 containing Bidder B's (Greenfield) price proposal summary and related notes. | § 366.093(3)(d) This is detailed pricing information provided by Bidder B in response to the RFP issued by Florida Power on November 26, 2001, the disclosure of which would impair the utilities efforts to contract for such services on favorable terms. |

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| Appendix J to the Need Study | Columns 1-11 of the Table on page 8 containing Bidder C's price proposal summary and related notes. | § 366.093(3)(d) This is detailed pricing information provided by Bidder C in response to the RFP issued by Florida Power on November 26, 2001, the disclosure of which would impair the utilities efforts to contract for such services on favorable terms. |
| Appendix J to the Need Study | Columns 1-10 and 11-20 of the Table on page 11 containing Bidder D's price proposal summary and related notes. | § 366.093(3)(d) This is detailed pricing information provided by Bidder D in response to the RFP issued by Florida Power on November 26, 2001, the disclosure of which would impair the utilities efforts to contract for such services on favorable terms. |
| Appendix J to the Need Study | Columns 1-10 of the Table on page 12 containing Bidder E's price proposal summary and related notes. | § 366.093(3)(d) This is detailed pricing information provided by Bidder D in response to the RFP issued by Florida Power on November 26, 2001, the disclosure of which would impair the utilities efforts to contract for such services on favorable terms. |
| Appendix J to the Need Study | Columns 1-15 of the Table on page 13 containing Bidder F's price proposal summary and related notes. | § 366.093(3)(d) This is detailed pricing information provided by Bidder F in response to the RFP issued by Florida Power on November 26, 2001, the disclosure of which would impair the utilities efforts to contract for such services on favorable terms. |

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| Appendix J to the Need Study | Columns 1-5 of the Table on page 14 containing Bidder G's price proposal summary and related notes. | <p>§ 366.093(3)(d)</p> <p>This is detailed pricing information provided by Bidder G in response to the RFP issued by Florida Power on November 26, 2001, the disclosure of which would impair the utilities efforts to contract for such services on favorable terms.</p> |
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