

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: October 28, 2002

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FLORIDA POWER'S SECOND 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 portions of the responses to the Florida Public Commissions Staff's ("Staff") First Set of Interrogatories numbers 11, 15, 16, and 24 and Staff's Second Set of Interrogatories numbers 50, 54, and 59 for the reasons set forth in detail below and in the affidavit of Daniel Roeder filed herewith. The unredacted interrogatory responses have been filed under seal with the Commission on a confidential basis for the reasons set forth below.

Basis for Confidential Classification

Interrogatories numbers 11, 15, 16 and 24 (or the redacted portions thereof) should be afforded confidential treatment for the following reasons. 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 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

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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.

Subsection 366.093(1), Fla. Stat. 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. Stat., 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 responses to Interrogatories 11, 15,16, and 24 (or the redacted portions thereof) are entitled to protection

pursuant to Sec. 366.093, Fla. Stat., and Rule 25-22.006 as specifically outlined in the attached justification and as set forth in the affidavit of Daniel J. Roeder filed herewith.

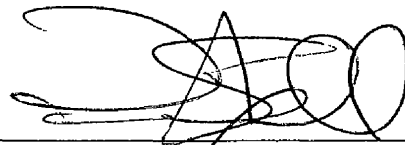
Similarly, Interrogatories numbers 50, 54, and 59 should also be afforded confidential treatment in accord with the protections of Sec. 366.093, Fla. Stat. and Rule 25-22.006. Interrogatories numbers 50 and 54 have only been redacted to the extent that they specifically identify the EPC contractor that Florida Power first relied upon in developing its estimate for Hines Unit 2. Florida Power is currently in pre-suit negotiations with this contractor and disclosure of the identity of this contractor is likely to negatively impact ongoing settlement negotiations that may result in a benefit to Florida Power's ratepayers. The Public Service Commissions longstanding policy of encouraging settlements weighs against disclosing this information publicly, and confidential treatment should be afforded to this information on this basis alone. In addition, however, the disclosure of the identity of this contractor and this contractual information prior to the resolution of these issues would undoubtedly impair Florida Power's ability to contract with this company on favorable terms in the future to the benefit of its ratepayers. Section 366.093(3) Fla. Stat., specifically contemplates keeping confidential contractual data (here the identity of a contractor) that might impair a utilities subsequent ability to contract on favorable terms. See the attached justification and the Affidavit of Daniel J. Roeder filed herewith.

Finally, Florida Power's response to Staff's Interrogatory number 59 must be kept confidential for security reasons. In this Interrogatory, Staff asked Florida Power to identify the facilities the Hines Unit 3 will share with Hines Units 1 and 2 that if removed would cause two or more of the Hines Units to be removed from service. A real security risk to Florida Power's plants and employees would result should this information be disclosed. This response provides

a road map to would-be terrorists or saboteurs who might want to harm Florida Power's employees or operations. Section 366.093(c) Fla. Stat., specifically contemplates keeping matters of security confidential. Indeed, given the current political climate and the real threat of hostile action on American soil, it is more important perhaps than at other times in the Nations history that information such as this be held closely and kept confidential. See the attached justification and the affidavit of Daniel J. Roeder filed herewith.

Respectfully submitted this 28th day of October 2002.

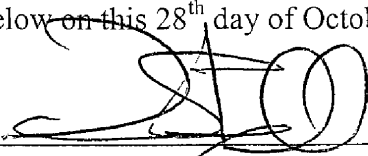
JAMES A. MCGEE
Associate General Counsel
PROGRESS ENERGY SERVICE
COMPANY, LLC
P.O. Box 14042
St. Petersburg, Florida 33733
Telephone: (727) 820-5184
Facsimile: (727) 820-5519



GARY L. SASSO
Florida Bar No. 622575
JILL H. BOWMAN
Florida Bar No. 057304
W. DOUGLAS HALL
Florida Bar No. 347906
CARLTON FIELDS, P.A.
Post Office Box 2861
St. Petersburg, FL 33731
Telephone: (727) 821-7000
Facsimile: (727) 822-3768

CERTIFICATE OF SERVICE

I HEREBY CERTIFY THAT a true and correct copy of the foregoing has been served by U.S. Mail to the interested parties of record as listed below on this 28th day of October 2002.



Attorney

PARTIES OF RECORD:
PARTIES OF RECORD:

Lawrence Harris and
Marlene Stern
Legal Division
Florida Public Service Commission
Gunter Building
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

Paul Darst
Department of Community Affairs
Division of Resource Planning/Mgmt.
2555 Shumard Oak Blvd.
Tallahassee, FL 32399-2100
Telephone: 850-488-4925

Buck Oven
Siting Coordination Office
Department of Environmental Protection
2600 Blairstone Road
Tallahassee, FL 32301
Telephone: 850-487-0472

Paul Lewis, Jr.
Florida Power Corporation
106 East College Avenue, Suite 800
Tallahassee, FL 32301-7740
Telephone: 850-222-8738
Facsimile: 850-222-9768

Greg Holder, Regional Director
Fish & Wildlife Conservation Commission
3900 Drane Field Rd.
Lakeland, Fl 33811-1299
Telephone: (863) 648-3203

Vincent Akhimie
Polk County Board of Commissioners
P. O. Box 2019
Bartow, FL 33831
Telephone: 863-534-6039
Facsimile: 863-534-6059

James A. McGee
Associate General Counsel
Progress Energy Service Co., LLP
P. O. Box 14042
St. Petersburg, FL 33733
Telephone: (727) 820-5184
Facsimile: 727-820-5519

R. Douglas Leonard
Regional Planning Council 07
555 E. Church Street
Bartow, FL 33830-3931
Telephone: 863-534-7130
Facsimile: 863-534-7138

St. Johns River Water Management District
P. O. Box 1429
Palatka, FL 32178-1429
Telephone: 386-329-4500
Facsimile: 386-329-4485

Myron Rollins
Black & Veatch
Post Office Box 8405
Kansas City, MO 64114
Telephone: (913) 458-2000
Facsimile: (913) 339-2934
Bruce May
Holland & Knight
Post Office Drawer 810
Tallahassee, FL 32302-0810
Telephone: (850) 224-7000
Facsimile: (850) 224-8832

Patty DiOrio
CPV Pierce, Ltd.
35 Braintree Hill Office Park
Suite 107
Braintree, MA 02184

Jon Moyle, Jr.
Moyle Law Firm
The Perkins House
118 North Gadsden Street
Tallahassee, FL 32301
Telephone: (850) 681-3828
Facsimile: (850) 681-8788

DOCUMENTS	PAGE/LINE	JUSTIFICATION
Response to Staff's Interrogatory # 11 – Bidder C	2 page response reflecting PWRR through 2030 for the expansion plan evaluated in connection with Bidder C's proposal (excluding headings and notes that do not contain Bidder specific information).	§ 366.093(3)(d) This includes confidential bid pricing information and the results of the economic analysis performed by Florida Power in connection with the confidential bid pricing information submitted by Bidder C. Disclosure of this analysis would result in the disclosure of confidential information contained in Bidder C's bid, the disclosure of which would impair the utilities' efforts to contract for such services on favorable terms.
Response to Staff's Interrogatory #11 – Bidder D	2 page response reflecting PWRR through 2030 for the expansion plan evaluated in connection with Bidder D's proposal (excluding headings and notes that do not contain Bidder specific information).	§ 366.093(3)(d) This includes confidential bid pricing information and the results of the economic analysis performed by Florida Power in connection with the confidential bid pricing information submitted by Bidder D. Disclosure of this analysis would result in the disclosure of confidential information contained in Bidder D's bid, the disclosure of which would impair the utilities' efforts to contract for such services on favorable terms.
Response to Staff's Interrogatory # 11 – Bidder E	2 page response reflecting PWRR through 2030 for the expansion plan evaluated in connection with Bidder E's proposal (excluding headings and notes that do not contain Bidder specific information).	§ 366.093(3)(d) This includes confidential bid pricing information and the results of the economic analysis performed by Florida Power in connection with the confidential bid pricing information submitted by Bidder E. Disclosure of this analysis would result in the

		disclosure of confidential information contained in Bidder E's bid, the disclosure of which would impair the utilities' efforts to contract for such services on favorable terms.
Response to Staff's Interrogatory # 11 – Bidder F	2 page response reflecting PWRR through 2030 for the expansion plan evaluated in connection with Bidder F's proposal (excluding headings and notes that do not contain Bidder specific information).	§ 366.093(3)(d) This includes confidential bid pricing information and the results of the economic analysis performed by Florida Power in connection with the confidential bid pricing information submitted by Bidder F. Disclosure of this analysis would result in the disclosure of confidential information contained in Bidder F's bid, the disclosure of which would impair the utilities' efforts to contract for such services on favorable terms.
Response to Staff's Interrogatory #15 – Bidder C	Portions of the discussions of the Transmission impact study conducted by Florida Power in connection with its evaluation of Bidder C's bid during the RFP process.	§ 366.093(3)(d) This Bidder specific transmission impact information, if disclosed, would tend to identify the location of Bidder C's proposed plant and potentially Bidder C's identity. The location of the Bidder C's proposed project was provided as part of the confidential information submitted in response to the RFP. Moreover, each Bidder's identity has been kept confidential insofar as it was given in the context of bid specific information to ensure the maintenance of the confidential nature of the bids. The disclosure of this information would impair the

		utilities' efforts to contract for such services on favorable terms.
Response to Interrogatory # 15 – Bidder D	Portions of the discussions of the Transmission impact study conducted by Florida Power in connection with its evaluation of Bidder D's bid during the RFP process.	§ 366.093(3)(d) This Bidder specific transmission impact information, if disclosed, would tend to identify the location of Bidder D's proposed plant and potentially Bidder D's identity. The location of the Bidder D's proposed project was provided as part of the confidential information submitted in response to the RFP. Moreover, each Bidder's identity has been kept confidential insofar as it was given in the context of bid specific information to ensure the maintenance of the confidential nature of the bids. The disclosure of this information would impair the utilities' efforts to contract for such services on favorable terms.
Response to Interrogatory #15 – Bidder F	Portions of the discussions of the Transmission impact study conducted by Florida Power in connection with its evaluation of Bidder F's bid during the RFP process.	§ 366.093(3)(d) This Bidder specific transmission impact information, if disclosed, would tend to identify the location of Bidder F's proposed plant and potentially Bidder F's identity. The location of the Bidder F's proposed project was provided as part of the confidential information submitted in response to the RFP. Moreover, each Bidder's identity has been kept confidential insofar as it was given in the context of bid specific information to ensure

		the maintenance of the confidential nature of the bids. The disclosure of this information would impair the utilities' efforts to contract for such services on favorable terms.
Response to Staff's Interrogatory # 16	Table –Transmission Charges(\$/kW-Yr) for Bidder's A-G, and related notes.	§ 366.093(3)(d) This is confidential pricing information provided by the Bidders reflecting anticipated interconnection costs. The disclosure of this information would impair the utilities' efforts to contract for such services on favorable terms.
Response to Staff's Interrogatory #16 – Bidder C.	Portions of the discussion of the transmission cost impacts associated with Bidder's C's response to the RFP based on the transmission impact study conducted by Florida Power in connection with its evaluation of Bidder C's bid during the RFP process.	§ 366.093(3)(d) This Bidder specific transmission impact cost information, if disclosed, would tend to identify the location of Bidder C's proposed plant and potentially Bidder C's identity. The location of the Bidder C's proposed project was provided as part of the confidential information submitted in response to the RFP. Moreover, each Bidder's identity has been kept confidential insofar as it was given in the context of bid specific information to ensure the maintenance of the confidential nature of the bids. The disclosure of this information would impair the utilities' efforts to contract for such services on favorable terms.

<p>Response to Staff's Interrogatory #16 – Bidder D</p>	<p>Portions of the discussion of the transmission cost impacts associated with Bidder's D's response to the RFP based on the transmission impact study conducted by Florida Power in connection with its evaluation of Bidder D's bid during the RFP process.</p>	<p>§ 366.093(3)(d) This Bidder specific transmission impact cost information, if disclosed, would tend to identify the location of Bidder C's proposed plant and potentially Bidder C's identity. The location of the Bidder C's proposed project was provided as part of the confidential information submitted in response to the RFP. Moreover, each Bidder's identity has been kept confidential insofar as it was given in the context of bid specific information to ensure the maintenance of the confidential nature of the bids. The disclosure of this information would impair the utilities' efforts to contract for such services on favorable terms.</p>
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<p>Interrogatory #16 – Bidder F</p>	<p>Portions of the discussion of the transmission cost impacts associated with Bidder's F's response to the RFP based on the transmission impact study conducted by Florida Power in connection with its evaluation of Bidder D's bid during the RFP process.</p>	<p>§ 366.093(3)(d) This Bidder specific transmission impact cost information, if disclosed, would tend to identify the location of Bidder F's proposed plant and potentially Bidder F's identity. The location of the Bidder F's proposed project was provided as part of the confidential information submitted in response to the RFP. Moreover, each Bidder's identity has been kept confidential insofar as it was given in the context of bid specific information to ensure the maintenance of the confidential nature of the bids. The disclosure of this information would impair the utilities' efforts to contract for such services on favorable terms.</p>
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Interrogatory # 24	Table – Columns 3 and 4 identifying the location and capacity (MW) associated with each of the Bids, excluding Bidder E.	<p>§ 366.093(3)(d)</p> <p>This bidder specific location and capacity information, if disclosed, would identify the location of the Bidders proposed plants and potentially the Bidders' identities. The location of the Bidders' proposed projects was provided as part of the confidential information submitted in response to the RFP. Moreover, each Bidder's identity has been kept confidential insofar as it was given in the context of bid specific information to ensure the maintenance of the confidential nature of the bids. The disclosure of this information would impair the utilities' efforts to contract for such services on favorable terms.</p>
Response to Interrogatory # 50	Identification of the EPC contractor discussed in the response.	<p>§ 366.093(3)(d)</p> <p>The disclosure of this information would impair ongoing pre-suit settlement and dispute resolution efforts, and the utilities' efforts to contract for such services on favorable terms in the future.</p>
Response to Interrogatory # 54	Identification of the EPC contractor discussed in the response.	<p>§ 366.093(3)(d)</p> <p>The disclosure of this information would impair ongoing pre-suit settlement and dispute resolution efforts, and the utilities' efforts to contract for such services on favorable terms in the future.</p>

Response to Interrogatory # 59	All – The response describes the facilities that Hines Unit 3 shares with Hines Units 1 and 2 that if removed would cause two or more of the Hines Units to be removed from service.	§ 366.093(3)(c) The disclosure of this information would impair the security of these facilities by identifying systems that if removed (or destroyed) would cause two or more of the Hines Units to be removed from service.
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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: October 28, 2002

**AFFIDAVIT OF DANIEL J. ROEDER IN SUPPORT OF
FLORIDA POWER'S SECOND REQUEST FOR CONFIDENTIAL CLASSIFICATION**

STATE OF NORTH CAROLINA

COUNTY OF WAKE

BEFORE ME, the undersigned authority duly authorized to administer oaths, personally appeared Daniel J. Roeder, who being first duly sworn, on oath deposes and says that:

1. My name is Daniel J. Roeder. I am a Project Leader in the System and Resource Planning Section of the System Planning and Operations Department. I am over the age of 18 years old and I have been authorized by Florida Power Corporation (hereinafter "Florida Power" or the "Company") to give this affidavit in the above-styled proceeding on Florida Power's behalf and in support of Florida Power's Second Request for Confidential Classification. The facts attested to in my affidavit are based upon my personal knowledge.

2. Florida Power is seeking confidential classification of portions of its responses to the Florida Public Service Commission Staff's ("Staff") interrogatories number 11, 15, 16, and 24. These interrogatories call for the recitation of confidential pricing information provided by the bidders, or information that would permit one to determine the confidential location of certain bidders' proposed projects, or discover the identities of the bidders in relation to their bids. Florida Power is requesting confidential classification of these materials because the bidders who submitted the proposals in response to the Company's RFP issued pursuant to Rule 25-22.082 asked the Company to keep this information confidential by declaring this information confidential.

3. The Company provided for the confidentiality of the bids it received in response to its RFP by including a confidentiality provision in the RFP. Florida Power included the confidentiality provision in the RFP to assure bidders that the terms of their bids would be kept confidential and would not be publicly disclosed. Absent such assurances, potential bidders would run the risk that any sensitive engineering, construction, cost, or other business information that they provided in their bids would be made available to the public and, as a result, end up in possession of potential competitors. Faced with that risk, potential bidders might withhold such information altogether, denying Florida Power the ability to fully understand and accurately assess the cost and benefits of the bidders' proposals. Or, persons or companies who otherwise would have submitted bids in response to Florida Power's RFP might decide not to do so, if Florida Power did not assure them that the terms of their bids would be kept confidential. In either case, without the assurance of confidentiality for the terms of the bids in response to Florida Power's RFP, Florida Power's efforts to obtain competitive alternative proposals to its next-planned generating unit through its RFP would be undermined.

4. For these reasons, Florida Power declared its intent in the RFP to keep the terms of the bidders' proposals in response to the RFP confidential. Upon receipt of the bids, strict procedures were established and followed to maintain the confidentiality of the terms of bidders' proposals, including restricting access to those persons who needed the information to assist the Company in its evaluation of the bids and restricting the number of, and access to, copies of the proposals. At no time since receiving the bidders' proposals has the Company publicly disclosed the terms of the proposals, even to the other bidders. The Company has treated and continues to treat the bidders' proposals as confidential. Likewise, Florida Power has also kept the confidential responses to the above-recited interrogatories confidential in the same manner and for the same purposes.

5. Florida Power is also seeking confidential classification of its responses (or portions thereof) to Staff's Second Set of Interrogatories numbers 50, 54, and 59. Interrogatories 50 and 54 identify the EPC contractor whose contract with Florida Power served as Florida Power's initial cost

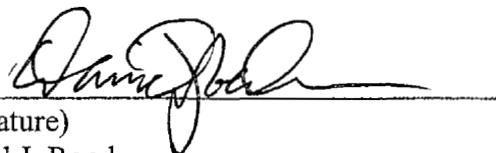
estimate for Hines 2. Florida Power is in litigation with this EPC contractor and the disclosure of the contractor's identity is likely to negatively impact ongoing settlement negotiations that may ultimately result in a benefit to Florida Power's ratepayers. Likewise, the disclosure of the identity of this contractor and this contractual information prior to the resolution of these issues would undoubtedly impair Florida Power's ability to contract with this company on favorable terms in the future to the benefit of its ratepayers.

6. Finally, Florida Power is also seeking to keep confidential its entire response to Staff Interrogatory number 59. This Interrogatory asks Florida Power to identify the facilities the Hines Unit 3 will share with Hines Units 1 and 2 that if removed would cause two or more of the Hines Unit to be removed from service. This information should be held confidential and is treated as such by Florida Power based on the real security risk to Florida Power's plants and employees should this information be disclosed. The disclosure of this information would provide a road map to would-be terrorists or saboteurs who might desire to disable two or more of Florida Power's power plants, jeopardizing both the safety of Florida Power's employees and its operations of these plants. Indeed, given the current political climate and the real threat of hostile action on American soil, it is more important perhaps than at other times in the Nation's history that information such as this be held closely and kept confidential.

9. This concludes my affidavit.

Further affiant sayeth not.

Dated the 25th day of October 2002.



(Signature)
Daniel J. Roeder
Project Leader
System Planning & Operations Department
Progress Energy MC PEB 7A
Post Office Box 1551
Raleigh, NC. 27602

THE FOREGOING INSTRUMENT was sworn to and subscribed before me this 25th day of October 2002 by Daniel J. Roeder. He is personally known to me, or has produced his _____ driver's license, or his _____ as identification.

Patty Lyn Bowers
(Signature)

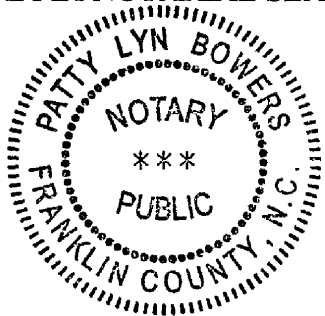
Patty Lyn Bowers
(Printed Name)

NOTARY PUBLIC, STATE OF North Carolina

November 21, 2005
(Commission Expiration Date)

(Serial Number, If Any)

(AFFIX NOTARIAL SEAL)



My Commission Expires 11-21-2005