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Writer's Direct Dial:  
 (561) 691-7101

October 23, 2003

**VIA HAND DELIVERY**

Ms. Blanca S. Bayó, Director  
 Division of the Commission Clerk and  
 Administrative Services  
 Florida Public Service Commission  
 Betty Easley Conference Center, Room 110  
 2540 Shumard Oak Boulevard  
 Tallahassee, Florida 32399-0850

**Re: Florida Power & Light Company's First Request for Extension  
 of Confidential Classification Granted by Order No. PSC-02-0549-CFO-EI  
 in connection with FPL's Petitions for Determination of Need for Martin  
 Unit 8 and Manatee Unit 3  
 Docket No: 020262-EI, Docket No. 020263-EI**

Dear Ms. Bayo:

I enclose and hand you herewith for filing in the above-referenced matter, the original and five (5) copies of Florida Power & Light Company's ("FPL") First Request for Extension of Confidential Classification Granted by PSC Order No. 02-0549-CFO-EI. Exhibits A, B, and C from the previous filing subject to PSC Order No. 02-0549-CFO-EI are incorporated herein by reference.

Exhibit D contains the Affidavit of Steven R. Sim in support of FPL's First Request for Extension of Confidential Classification. Also included herewith is a computer diskette containing FPL's Request for Confidential Classification in WordPerfect. Please contact me should you or your Staff have any questions regarding this filing.

Sincerely,

R. Wade Litchfield

- AUS \_\_\_\_\_
- CAF \_\_\_\_\_
- CMP \_\_\_\_\_
- COM \_\_\_\_\_ RWL/ec
- CTR \_\_\_\_\_ Enclosures
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**BEFORE THE  
FLORIDA PUBLIC SERVICE COMMISSION**

In re: Petition for Determination of Need )  
for Proposed Electrical Power Plant in )  
Martin County of Florida Power and )  
Light Company )

DOCKET NO. 020262-EI

Filed: October 23, 2003

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In re: Petition for Determination of Need )  
For Proposed Electrical Power Plant in )  
Manatee County of Florida Power and )  
Light Company )

DOCKET NO. 020263-EI

Filed: October 23, 2003

**FLORIDA POWER & LIGHT COMPANY'S  
FIRST REQUEST FOR EXTENSION OF CONFIDENTIAL  
CLASSIFICATION GRANTED BY ORDER NO. PSC-02-0549-CFO-EI**

**NOW, BEFORE THE COMMISSION**, through undersigned counsel, comes Florida Power & Light Company ("FPL") and, pursuant to Rule 25-22.006 of the Florida Administrative Code and Section 366.093 of the Florida Statutes, hereby submits its First Request for Extension of Confidential Classification Granted by Order No. PSC-02-0549-CFO-EI of the Florida Public Service Commission ("FPSC" or "Commission"), issued in Docket Nos. 020262-EI and 020263-EI in connection with FPL's Petitions for Determination of Need for Martin Unit 8 and Manatee Unit 3. In support of its Request, FPL states as follows:

1. Petitioner's name and address are:

Florida Power & Light Company  
P.O. Box 029100  
Miami, Florida 33102-9100

Orders, notices, or other pleadings related to this request should be served on:

William G. Walker, III  
Florida Power & Light Company  
Vice President  
215 South Monroe Street  
Suite 810  
Tallahassee, Florida 32301-1859  
(850) 521-3910  
(850) 521-3939 Facsimile

R. Wade Litchfield  
Florida Power & Light Company  
Senior Attorney  
700 Universe Boulevard  
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2. On March 22, 2002, FPL filed with the Commission its Request for Confidential Classification for certain documents and information filed in connection with its Petitions for Determination of Need. FPL's initial filing consists of the Consolidated Request for Confidential Classification and Exhibits A through D. By Order No. PSC-02-0549-CFO-EI, issued April 23, 2002, the Commission granted FPL's Request.

3. The period of confidential treatment granted by the Commission will soon expire. The information that was the subject of FPL's March 22, 2002 Request warrants continued treatment as proprietary and confidential business information with the meaning of Section 366.093. Accordingly, FPL hereby submits its First Request for Extension of Confidential Classification.

4. FPL adopts and incorporates by reference its March 22, 2002 request, including Exhibits A, B, C. Included herewith and made a part hereof is Exhibit D. Exhibit D consists of the Affidavit of Steven R. Sim, which Affidavit shall replace Exhibit D submitted with the March 22, 2002 filing.

5. FPL submits that such information is proprietary confidential business information within the meaning of section 366.093(3). Pursuant to section 366.093, such materials are entitled to confidential treatment and are exempt from the disclosure provisions of

the public records law. Thus, once the Commission determines that the information in question is proprietary confidential business information, the Commission is not required to engage in any further analysis or review such as weighing the harm of disclosure against the public interest in access to the information.

6. The Confidential Information for which FPL seeks extension of confidential classification consists of six confidential Appendices to the Need Study Document filed in support of FPL's Petitions to Determine Need for Martin Unit 8 and Manatee Unit 3 and a confidential attachment to the independent, third-party evaluator's report, which is part of Document AST-2 attached to the prefiled Direct Testimony of Mr. Alan Taylor. Appendix C-1 is a summary of the 81 Request for Proposals ("RFP") proposals submitted to FPL and is the input sheet used in the economic evaluation of the proposals. Appendices C-2 through C-6 are computer input and output reports containing the confidential bid information submitted in response to FPL's RFP and confidential FPL unit operating data, The Confidential Attachment to Document AST-2 contains two tables that set forth confidential RFP bid information analyzed by Mr. Taylor as well as some text that contains pricing information regarding one of the RFP bids.

7. All the Confidential Information was admitted as confidential exhibits into the record in Docket Nos. 020262-EI and 020263-EI. Furthermore, this Confidential Information has been granted confidential status by the Supreme Court of Florida in the appeal of those dockets.

8. Much of the material for which extension of confidential classification is sought is the proprietary business information of parties that responded to a RFP issued by FPL to

solicit proposals to meet FPL's 2005 and 2006 capacity needs. Such information is intended to be and has been treated by the RFP respondents and FPL as private and has not been publicly disclosed. The documents continue to contain extensive proprietary confidential business information regarding the RFP respondents and confidential information concerning bids or other contractual data that FPL has a duty to keep confidential. As Mr. Sim notes in his affidavit, respondents to the last RFP understood that the information would be protected at least through the date the determination of need decision became final. The Commission's decision has been appealed to the Supreme Court and, thus, is not yet final. In general, the disclosure of such information could significantly impair the competitive business interests of the RFP respondents and impair their efforts to contract for goods and services on favorable terms. In particular, certain respondents who may participate in the current RFP would have an interest in maintaining the confidentiality of their prior bids through a significant portion of the current RFP process. In addition to harming the respondents' competitive interests, disclosure could impair FPL's ability to obtain competitive proposals for future needs. Thus, disclosure of the Confidential Information would injure the RFP respondents, FPL and FPL's customers.

9. The remainder of the Confidential Information for which FPL continues to seek confidential classification is FPL unit performance data (projected forced outage rates, heat rates, etc.) the disclosure of which would impair FPL's competitive interests and injure FPL's customers. FPL's customers would be injured by the disclosure of this information because disclosure would adversely affect FPL's ability to make off-system sales to benefit FPL's customers. As indicated by Mr. Sim in the attached affidavit, unlike information furnished by respondents to an RFP that relates to potential units that may never be built, FPL's information

relates to actual costs and operations of existing units. As Mr. Sim states, the character and substance of the confidential FPL information reflected in the prior filings has not changed. Consequently, it cannot be disclosed without harm or prejudice to FPL's current interests and prospective competitive interests.

10. Accordingly, FPL requests that the information referenced above be accorded confidential classification for an additional 18-month period. FPL further requests that the information be returned to FPL as soon as it is no longer necessary for the Commission to conduct its business.

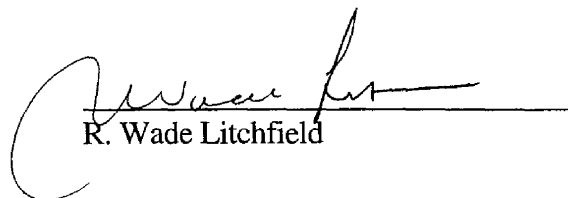
**WHEREFORE**, for the above and foregoing reasons, as more fully set forth in the supporting materials and affidavit included herewith or incorporated herein by reference, Florida Power & Light Company respectfully requests that its First Request for Extension of Confidential Classification be granted.

Respectfully submitted,

Charles A. Guyton, Esq.  
Florida Bar No. 398039  
Steel Hector & Davis LLP  
215 S. Monroe St., Suite 601  
Tallahassee, Florida 32301  
Tel: (850) 222-2300

R. Wade Litchfield  
Florida Authorized House Counsel  
700 Universe Boulevard  
Juno Beach, Florida 33408-0420  
Tel: (561) 691-7101  
Fax: (561) 691-7135

Attorneys for Florida Power & Light Company    Attorney for Florida Power & Light Company

  
R. Wade Litchfield

**CERTIFICATE OF SERVICE**  
**DOCKET NOS. 020262-EI and 020263-EI**

I HEREBY CERTIFY that a true and correct copy of the foregoing First Request for Extension has been furnished by U.S. Mail or Hand Delivery (\*) to the following parties on this 23rd day of October 2003:

Martha Carter Brown, Esq.  
Legal Division  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, Florida 32399-0850

Charles Beck  
Office of Public Counsel  
c/o Florida Legislature  
111 W. Madison Street  
Room 812  
Tallahassee, Florida 32399-1400

Michael B. Twomey, Esq.  
P. O. Box 5256  
Tallahassee, FL 32314-5256

Florida Industrial Power Users Group  
c/o John W. McWhirter  
McWhirter Reeves  
400 North Tampa Street, Suite 3350  
Tampa, FL 33602

Florida Action Coalition Team  
Ernie Bach  
P. O. Box 100  
Largo, FL 33779-0100

McWhirter Law Firm  
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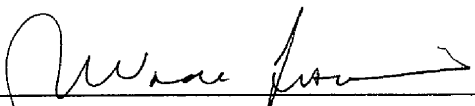
Michael Green  
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Longwood, FL 32779

Calpine Eastern Corporation  
Timothy R. Eves/Joseph A. Regnery  
2701 North Rocky Point Drive  
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Tampa, FL 33607

Florida Partnership for Affordable Competitive  
Energy  
P. O. Box 11062  
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Scheffel Wright/D. Kiesling/J. LaVia  
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Leslie J. Paugh, P.A.  
P.O. Box 16069  
Tallahassee, FL 32317-6069

  
\_\_\_\_\_  
R. Wade Litchfield



**EXHIBIT D**

**AFFIDAVIT OF  
STEVEN R. SIM**

**EXHIBIT D**

STATE OF FLORIDA                    )  
  )  
COUNTY OF MIAMI-DADE            )

**AFFIDAVIT OF STEVEN R. SIM**  
**OCTOBER 23, 2003**

BEFORE ME, the undersigned authority, this day personally appeared Steven R. Sim, who, first being duly sworn, deposes and states:

1. My name is Steven R. Sim. I am employed by Florida Power & Light Company (“FPL”) as a Supervisor in the Resource Assessment and Planning Department. In my role as Supervisor of a group that is responsible for determining FPL resource needs and developing an integrated resource plan, I administered FPL’s 2001 Request for Proposals for Capacity and Energy (“RFP”).

2. I am familiar with the Confidential Appendices, Appendices C-1 through C-6, to the Need Study document supporting FPL’s Petitions to Determine Need for Martin Unit 8 and Manatee Unit 3. I am also familiar with the Confidential Attachment to Document AST-2, which is the Independent Evaluator’s report regarding FPL’s Capacity RFP.

3. I have reviewed FPL’s First Request for Extension for Confidential Classification Granted by Order No. PSC-02-0549-CFO-EI. The representations FPL makes therein regarding Confidential Information are true and correct. The information that FPL identifies therein as Confidential Information is proprietary and confidential, the disclosure of which would be harmful to the RFP respondents, FPL and FPL’s customers. This information is treated by FPL as confidential.

4. FPL seeks to protect two types of information as confidential. The first type is bid information provided to FPL by RFP respondents. This includes, but is not limited to,

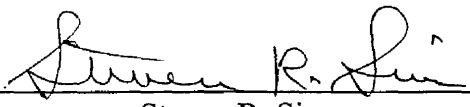
capacity costs, energy prices, fixed and variable O&M, heat rates and unit availability. The RFP respondents requested that FPL treat their RFP bid terms as confidential. FPL has complied with those requests. Although there was no explicit statement in the prior RFP or related documentation that indicated the length of time such information would be kept confidential, it was understood that the information would remain confidential through the time the decision regarding FPL's need determination had become final. The Commission's decision currently is on appeal at the Florida Supreme Court.

5. Further, at least some of the respondents to the last RFP would maintain that the information submitted should continue to be protected beyond the date the Commission's decision becomes final, particularly in light of the current RFP. Many of the respondents to the prior RFP may participate in the current FPL RFP and/or in other RFPs outside of Florida, against some or all of their fellow respondents. Disclosure of this information could impair the competitive interests of the RFP respondents and jeopardize their ability to negotiate contract terms. Disclosure of information submitted in the last RFP would be particularly problematic for respondents who intend to submit bids in response to the current RFP and whose prospective bids may be similar in material respects to the bids they provided in response to the prior RFP. Disclosure of this information also would impair FPL's prospective ability to solicit capacity proposals, to the detriment of FPL's customers. This type of information is in all the documents for which FPL seeks confidential classification.


6. The second type of information FPL seeks to protect as proprietary and confidential is information regarding the cost and operation of FPL's generating units. This information is confidential to FPL just as this type of information is confidential to the RFP respondents. However, unlike information furnished by respondents that relates to potential

units that may never be built, FPL's information relates to actual costs and operations of existing units. FPL competes in the wholesale power market, and the disclosure of this information would injure FPL's competitive interests and FPL's ability to favorably negotiate contractual terms. The character and substance of the information reflected in the prior filings has not changed such that it could be disclosed without harm or prejudice to FPL's current and prospective interests. It continues to have competitive value to FPL. The disclosure of this information would disadvantage FPL in making off-system sales to benefit FPL's customers. This second type of information regarding FPL's generating units is in Confidential Appendices C-2 through C-6.

7. Affiant says nothing further.

  
\_\_\_\_\_  
Steven R. Sim

**SWORN TO AND SUBSCRIBED** before me this 21<sup>ST</sup> day of October, 2003, by Steven R. Sim, who is personally known to me or who has produced \_\_\_\_\_ (type of identification) ~~as identification~~ and who did take an oath.

  
\_\_\_\_\_  
Notary Public, State of Florida

My Commission Expires:

