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September 24, 2004

VIA HAND DELIVERY

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

041142-EI

Re: Florida Power & Light Company's Request for Confidential Classification of Materials Provided in Connection with the Revenue Refund Audit No. 04-105-4-1

Dear Ms. Bayó:

Enclosed for filing are the original and seven (7) copies of Florida Power & Light Company's (FPL's) Request for Confidential Classification of Materials Provided in Connection with the Revenue Refund, Audit No. 04-105-4-1. The original includes Exhibits A, B, C and D. The 7 copies only include Exhibit C.

Exhibit A consists of copies of certain documents obtained in connection with the above-referenced audit on which all information that FPL asserts is entitled to confidential treatment has been highlighted. Exhibit A is submitted for filing in a separate, sealed folder marked "EXHIBIT A - CONFIDENTIAL." Exhibit B is an edited version of Exhibit A, in which the information FPL asserts is confidential has been redacted. Exhibit C consists of FPL's justification for its Request for Confidential Classification. Exhibit D contains affidavits in support of FPL's Request for Confidential Classification. Also included in this filing is a computer diskette containing FPL's Request for Confidential Classification and Exhibit C in Microsoft Word 2002 format.

In accord with Rule 25-22.006(3)(d), FPL requests confidential treatment of the information in Exhibit A pending disposition of FPL's Request for Confidential Classification. Please do not hesitate to contact me should you or your Staff have any questions regarding this filing.

Sincerely,

Natalie F. Smith *em*

NFS:ec

Enclosures

cc: Iliana H. Piedra, Audit Manager, FPSC (without enclosures)

DOCUMENT NUMBER-DATE

10376 SEP 24 3

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Request for Confidential) DOCKET NO. _____
Classification of Materials Provided)
In Connection with the Revenue Refund)
Audit No. 04-105-4-1) FILED: September 24, 2004

**REQUEST FOR CONFIDENTIAL
CLASSIFICATION OF MATERIALS PROVIDED IN
CONNECTION WITH THE REVENUE REFUND, AUDIT NO. 04-105-4-1**

NOW, BEFORE THIS COMMISSION, through undersigned counsel, comes Florida Power & Light Company (“FPL”) and, pursuant to Rule 25-22.006, Florida Administrative Code, and Section 366.093 of the Florida Statutes, hereby requests confidential classification of certain workpapers provided to the Florida Public Service Commission (“FPSC” or “Commission”) staff (“Staff”) in connection with the Revenue Refund Audit, Audit Control No. 04-105-4-1 (hereinafter the “Audit”) and asks that its request be considered on its merits despite being late filed. 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, II
Florida Power & Light Company
Vice President
215 South Monroe Street, Suite 810
Tallahassee, Florida 32301-1859
(850) 521-3900 Telephone
(850) 521-3939 Facsimile

R. Wade Litchfield, Senior Attorney
Natalie F. Smith, Attorney
Florida Power & Light Company
700 Universe Boulevard
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2. During the Audit, Staff requested access to various FPL reports and other documents. By letter dated August 26, 2004, Staff indicated its intent to retain certain audit workpapers. Pursuant to Rule 25-22.006(3)(a), Florida Administrative Code, FPL was given 21 days from the date of the letter, or until September 16, 2004, to file a formal request for confidential classification with respect to such workpapers. FPL contacted Staff on September 10, 2004, to request an extension of time to file a request for confidential classification. Staff advised FPL that it should request an extension of time to file this request when the request is filed. Additionally, Staff advised FPL that the temporary confidential status of the workpapers would be maintained until this request is ruled upon by the Commission.

3. FPL asks that this request be considered on its merits despite its filing out of time because good cause exists for FPL's failure to timely file. The Commission has considered late-filed requests when good cause is shown for why the request should be considered. See, e.g., Order No. PSC-01-2251-CFO-EI, Docket No. 000061-EI (issued Nov. 16, 2001) (considering late-filed request on its merits for good cause shown where the request was inadvertently late-filed, no other party objected to the late nature of the request, and the parties would be harmed if the request was denied on procedural grounds). Two major hurricanes – Charley and Frances – struck the areas served by FPL in less than one month's time. Hurricane Charley resulted in a loss of power to 874,000 FPL customers. During Hurricane Frances, 2.8 million of FPL's 4.2 million customers lost power. The FPL employees involved in this audit and request for confidential classification, including the undersigned counsel, have been serving storm duty in support of FPL's restoration efforts until several days ago. Despite attempts to do so, the employees involved in this request were unable to complete the steps necessary to make this request by September 16, 2004. FPL believes and represents that no party or interested person

has been or will be prejudiced by this filing lapse. To the contrary, the interest of the Company's customers has been and will continue to be served by maintaining the confidentiality of the information subject to this request for the reasons described below.

4. The following exhibits are included herewith and made a part hereof:

a. Exhibit A consists of all documents for which FPL seeks confidential treatment, whether in whole or in part. All information in Exhibit A that FPL asserts is entitled to confidential treatment has been highlighted. Exhibit A is submitted separately in a sealed folder marked "CONFIDENTIAL."

b. Exhibit B consists of edited versions of all documents for which FPL seeks confidential treatment. All information for which FPL requests confidential treatment has been redacted in Exhibit B.

c. Exhibit C is a table containing a line-by-line and page-by-page identification of the information for which confidential treatment is sought and, with regard to each document or portions thereof, references to the specific statutory basis or bases for the claim of confidentiality and to the affidavits in support of the requested classification. Exhibit C is sometimes referred to hereinafter as the "Justification Table."

d. Exhibit D includes the affidavits of David T. Bromley, Ken G. Getchell, Jeff A. Harbert and Lourdes F. Sori in support of this request.

5. FPL submits that the highlighted information in Exhibit A is proprietary confidential business information within the meaning of section 366.093(3). To the best of FPL's knowledge, the highlighted information has not been publicly disclosed. Pursuant to section 366.093, such information is entitled to confidential treatment and is 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. As the affidavit of Jeff A. Harbert indicates, certain highlighted information consists of contractual data such as pricing and other terms, the disclosure of which would impair the efforts of FPL to contract for goods and services on favorable terms. This information is protected by Section 366.093(3)(d), Florida Statutes. In addition, certain information is competitively sensitive insofar as FPL's contractors and vendors are concerned where disclosure of such information could afford their competitors an unfair advantage in competing for both FPL and non-FPL contracts. This competitively sensitive information is proprietary confidential business information pursuant to Section 366.093(3)(e), Florida Statutes. Finally, some of the information consists of internal company procedures that are proprietary confidential business information.

7. Further, as indicated by the affidavits of David T. Bromley and Ken Getchell, certain of the highlighted information is customer-specific account information. It is FPL's corporate policy not to disclose customer-specific information, except as required by law, absent the customer's consent. This policy includes, but is not limited to: customer names, addresses, telephone numbers, account numbers, rates, billing determinants (kW and kWh usage), conservation savings in kW, kWh and bills. Pursuant to Section 366.093(3)(e), Florida Statutes, this information is proprietary confidential business information.

8. Finally, as indicated by the affidavit of Lourdes F. Sori, some of the documents asserted by FPL to be proprietary confidential business information include contractual amounts paid by providers of wireless services that rent space on cellular towers owned by FPL. Such

contracts prohibit the disclosure of this information. If this information were disclosed, it could harm FPL's ability to contract on favorable terms with these companies in the future. The confidentiality of this information is protected by Section 366.093(3)(d). Further, disclosure of the amounts FPL charges for rental of cellular tower space may harm FPL's competitive business interests and may impair the competitive business of the companies that rent tower space from FPL. Thus, the information is also proprietary confidential business information pursuant to Section 366.093(3)(e).

9. Upon a finding by the Commission that the material in Exhibit A for which FPL seeks confidential treatment is proprietary confidential business information within the meaning of section 366.093(3), pursuant to section 366.093(4) such materials should not be declassified for a period of at least eighteen (18) months and should be returned to FPL as soon as the information 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 affidavits included herewith, Florida Power & Light Company asks that this request be considered on its merits despite being late-filed and respectfully requests that its request for confidential classification be granted.

Respectfully submitted,




Natalie F. Smith 
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Juno Beach, Florida 33408-0420
Tel. (561) 691-7207
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EXHIBIT “C”

TABLE OF JUSTIFICATION

EXHIBIT C

COMPANY: Florida Power & Light Company
TITLE: List of Confidential Workpapers
AUDIT: FPL., Revenue Refund

AUDIT CONTROL NO: 04-105-4-1

Workpaper No.	Description	No. of Pages	Conf Y/N	Line No./Col No.	Florida Statute 366.093(3) Subsection	Affiant
41-1/3	Lighting revenue	2	Y	p. 1, lines 9, 12, 13, 15, 18, 19, 21 p. 2, line 8	(e)	K. Getchell
41-1/4	Lighting revenue	4	N			
41-4/1-1/1	Cable billing	1	Y	p. 1, lines 1, 6-9, 13a-16 & 20	(e)	D. T. Bromley
41-4/1-1/2	Cable billing	1	Y	p. 1, lines 1, 6-9, 13-17 & 21	(e)	D. T. Bromley
41-4/1-1/3	Cable billing	2	Y	p. 1, lines 1, 6-9, 13-17 & 21 p. 2, line 1	(e)	D. T. Bromley
41-4/1-1/4	Cable billing	5	Y	p. 1, lines 1, 6-10, 14-19 & 23 p. 2, line 1 p. 3, line 1 p. 4, line 1 p. 5, line 1	(e)	D. T. Bromley
41-4/2-1	Wireless billing	1	Y	p. 1, lines 1, 6-9, 13-17, 20, 22-25	(d) (e)	L. Sori
41-4/2-2	Wireless billing	3	Y	p. 1, lines 1, 6-9, 13-17, 20, 22-27 p. 2, lines 1, 6-10, 13-18, 20, 22-30 p. 3, lines 1, 3	(d) (e)	L. Sori
41-4/3-1	Pole attachment billing	3	Y	p. 1, lines 1, 14-18 & 22 p. 2, lines 1, 6-9, 13-18 & 21 p. 3, lines 1, 6-10, 13a-17 & 21	(e)	D. T. Bromley
41-5/1	Physical Distribution Center	1	N			

Workpaper No.	Description	No. of Pages	Conf Y/N	Line No./Col No.	Florida Statute 366.093(3) Subsection	Affiant
41-7/1-1	Swap explanations	1	N			
41-7/1-1/1	Swap explanations	2	Y	p.1, lines 1-5 columns B, C and D p. 2, line 1, columns B-G, I, K, and M	(d)	J. A. Harbert
41-7/1-2	Swap explanations	1	N			
41-7/1-2/1	Swap explanations	5	Y	p. 1, lines 3-40, columns B, C, D and E p. 2, lines 3-42, column B; lines 3-44, column C; lines 3-39, column D; lines 3-43, column E p. 4, lines 1-22, columns E-F, H; lines 1-26, columns G, I; lines 1-24, column J	(d) (e)	J. A. Harbert
41-7/1-3	Swap explanations	5	Y	p. 1, all p. 2, all p. 3, all p. 4, all p. 5, all	(e)	J. A. Harbert