



Natalie F. Smith
Attorney
Florida Power & Light Company
700 Universe Boulevard
Juno Beach, FL 33408-0420
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(561) 691-7135 (Facsimile)

April 26, 2005

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

Re: Florida Power & Light Company's Request for Confidential Classification of Information Provided in Response to Request for Production No. 24 of the Florida Public Service Commission Staff's Third Set of Requests for Production of Documents - Docket No. 041291-EI

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 Information Provided in Response to Request for Production No. 24 of the Florida Public Service Commission Staff's Third Set of Requests for Production of Documents in the above-referenced Docket. The original includes Exhibits B, C and D. The 7 copies only include Exhibit C.

FPL incorporates by reference herein Exhibit A to the Notice of Intent filed April 5 in the above-referenced docket. 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 Word 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,

A handwritten signature in black ink, appearing to read 'Natalie F. Smith', is written over a light gray rectangular background.

Natalie F. Smith

NFS:cc
Enclosures

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for authority to recover prudently incurred storm restoration costs related to 2004 storm season that exceed storm reserve balance, by Florida Power & Light Company.) Docket No. 041291-EI)
)
)
) Filed: April 26, 2005

**REQUEST FOR CONFIDENTIAL
CLASSIFICATION OF INFORMATION PROVIDED IN
RESPONSE TO REQUEST FOR PRODUCTION NO. 24 OF
THE FLORIDA PUBLIC SERVICE COMMISSION STAFF’S THIRD SET OF
REQUESTS FOR PRODUCTION OF DOCUMENTS**

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 information provided in response to Request for Production No. 24 of the Florida Public Service Commission (“FPSC” or “Commission”) Staff’s (“Staff’s”) Third Set of Requests for Production of Documents. In support of its request, FPL states as follows:

1. Staff’s Third Set of Requests for Production of Documents No. 24 asked for a copy of the 2003 Edison Electric Institute (“EEI”) Reliability Report. The Edison Electric Institute agreed to permit FPL to provide Staff the documents supplied on April 5, 2005 subject to seeking confidential treatment of EEI’s information. Therefore, FPL filed a Notice of Intent to Seek Confidential Classification of the documents furnished on April 5, 2005.

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

a. Exhibit A – CONFIDENTIAL – to the Notice of Intent filed on April 5 is incorporated herein by reference. 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.

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 Thomas R. Koch and Ken Hall in support of this request.

3. FPL submits that the highlighted information in Exhibit A is proprietary confidential business information within the meaning of Section 366.093(3), Florida Statutes. To the best of FPL's knowledge, the highlighted information has not been publicly disclosed. Pursuant to Section 366.093, Florida Statutes, 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.

4. As the affidavits of Thomas R. Koch and Kenneth Hall indicate, the highlighted information consists of relative reliability data for EEI member utilities nationwide, including utilities subject to Florida Public Service Commission regulation, for which the all of the participating EEI member utilities who responded to the survey have an expectation of privacy

based on EEI's agreement not to disclose such data without each utilities' permission. The analysis is the intellectual property of EEI and disclosure of the information will harm the competitive interests of EEI and all of the participating EEI member utilities, as well as EEI's ability to gather the information necessary to prepare this type of report in the future, to FPL's detriment. Some of the information in the confidential documents is aggregate data from which the underlying confidential information could be gleaned. Disclosure of this information would similarly harm the competitive interests of EEI and all of the participating EEI member utilities and consequently, FPL's interest in having such report available with as many data inputs as possible. This information is protected by Section 366.093(3)(d) and (e), Florida Statutes.

5. 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 respectfully requests that its request for confidential classification be granted.

Respectfully submitted,



Natalie F. Smith
Attorney for Florida Power & Light Company
700 Universe Boulevard
Juno Beach, Florida 33408-0420
Tel. (561) 691-7207
Fax: (561) 691-7135

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of Florida Power & Light Company's Request for Confidential Classification, without Exhibits A, B, and D, was served by United States Mail this 26th day of April, 2005, to the following:

Wm. Cochran Keating, IV, Esq.
Katherine E. Fleming, Esq.
Florida Public Service Commission
Gerald L. Gunter Building
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850

Robert Scheffel Wright, Esq.
John T. LaVia, III, Esq.
Landers & Parsons, P.A.
310 West College Avenue
Tallahassee, Florida 32301
Attorneys for Florida Retail Federation

Harold McLean, Esq.
Patricia A. Christensen, Esq.
Joseph A. McGlothlin, Esq.
Office of Public Counsel
The Florida Legislature
111 West Madison Street, Room 812
Tallahassee, FL 32399-1400

John W. McWhirter, Jr., Esq.
McWhirter, Reeves, et al.
400 North Tampa Street, Suite 2450
Tampa, FL 33602
Attorneys for Florida Industrial Power Users Group

Timothy J. Perry, Esq.
McWhirter, Reeves, et al.
117 South Gadsden Street
Tallahassee, FL 32301
Attorneys for Florida Industrial Power Users Group

Michael B. Twomey, Esq.
P.O. Box 5256
Tallahassee, FL 32314-5256
Attorney for Thomas P. Twomey, Genevieve E. Twomey
and AARP


By: 
Natalie F. Smith, Esq.
Fla. Bar No. 470200

EXHIBIT “B”

EDITED VERSION

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EXHIBIT “C”

JUSTIFICATION TABLE

EXHIBIT C

COMPANY: Florida Power & Light Company
TITLE: List of Confidential Response to Request for Production No. 24 of Staff's Third Set of Requests for Production of Documents
DOCKET NO: Docket No. 041291-EI
SUBJECT: Request for Production No. 24 of Staff's Third Set of Requests for Production of Documents

INTERROGATORY NO.	DESCRIPTION	PAGES	CONF Y/N	LINE NO./ COL. NO	FLORIDA STATUTE 366.093(3) SUBSECTION	AFFIANT
24	EEI's 2003 Reliability Report	Page 1	Y	Entire page	(d), (e)	T. Koch K. Hall
	EEI's 2003 Reliability Report	Page 2	Y	Entire page	(d), (e)	T. Koch K. Hall
	EEI's 2003 Reliability Report	Page 3	Y	Entire page	(d), (e)	T. Koch K. Hall
	EEI's 2003 Reliability Report	Page 9	Y	Entire page	(d), (e)	T. Koch K. Hall
	EEI's 2003 Reliability Report	Page 10	Y	Entire page	(d), (e)	T. Koch K. Hall
	EEI's 2003 Reliability Report	Page 11	Y	Entire page	(d), (e)	T. Koch K. Hall
	EEI's 2003 Reliability Report	Page 12	Y	Entire page	(d), (e)	T. Koch K. Hall
	EEI's 2003 Reliability Report	Page 13	Y	Entire page	(d), (e)	T. Koch K. Hall
	EEI's 2003 Reliability Report	Page 14	Y	Entire page	(d), (e)	T. Koch K. Hall

INTERROGATORY NO.	DESCRIPTION	PAGES	CONF Y/N	LINE NO./ COL. NO	FLORIDA STATUTE 366.093(3) SUBSECTION	AFFIANT
	EEI's 2003 Reliability Report	Page 25	Y	Entire page	(d), (e)	T. Koch K. Hall
	EEI's 2003 Reliability Report	Page 26	Y	Entire page	(d), (e)	T. Koch K. Hall
	EEI's 2003 Reliability Report	Page 27	Y	Entire page	(d), (e)	T. Koch K. Hall
	EEI's 2003 Reliability Report	Page 28	Y	Entire page	(d), (e)	T. Koch K. Hall
	EEI's 2003 Reliability Report	Page 29	Y	Entire page	(d), (e)	T. Koch K. Hall

EXHIBIT “D”

AFFIDAVITS

EXHIBIT D

BEFORE THE

FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for authority to recover prudently incurred storm restoration costs related to 2004 storm season that exceed storm reserve balance, by Florida Power & Light Company.) Docket No. 041291-EI)))

STATE OF FLORIDA))
COUNTY OF MIAMI DADE)


AFFIDAVIT OF THOMAS R. KOCH

BEFORE ME, the undersigned authority, personally appeared Thomas R. Koch who, being first duly sworn, deposes and says:

1. My name is Thomas R. Koch. I am currently employed by Florida Power & Light Company ("FPL") as Manager, Power Systems Environmental. My business address is 7200 N.W. 4th Street , Plantation, FL 33317. I have personal knowledge of the matters stated in this affidavit.

2. With respect to Exhibit C, I have reviewed the documents and information for which I am listed as Affiant and which are included in Exhibit A to FPL's Request for Confidential Classification of Information Provided in Response to Request for Production No. 24 of the Florida Public Service Commission Staff's Third Set of Requests for Production of Documents ("FPL's Request for Confidential Classification"). Documents or materials that I have reviewed and which are asserted by FPL to be *proprietary confidential business information* contain or constitute relative reliability data for EEI member utilities nationwide, including utilities subject to Florida Public Service Commission regulation, for which all of the participating EEI member utilities who responded to the survey have an expectation of privacy based on EEI's agreement not to disclose such data without each utilities' permission. The analysis is the intellectual property of EEI and disclosure of the information will harm the competitive interests of EEI and all of the participating EEI member utilities, as well as EEI's ability to gather the information necessary to prepare this type of report in the future, to FPL's detriment. Some of the information in the confidential documents is aggregate data from which the underlying confidential information could be gleaned. Disclosure of this information would similarly harm the competitive interests of EEI and all of the participating EEI member utilities and consequently, FPL's interest in having such report available with as many data inputs as possible. To the best of my knowledge, the confidentiality of these documents and materials has been maintained.

3. Affiant says nothing further.



Thomas R. Koch

SWORN TO AND SUBSCRIBED before me this 25th day of April 2005, by Thomas R. Koch, who is personally known to me or who has produced _____ (type of identification) as identification and who did take an oath.

Katherine A. Moedel

Notary Public, State of Florida

My Commission Expires:

December 20, 2006



Katherine A Moedel

My Commission DD154711

Expires December 20, 2006

EXHIBIT D

BEFORE THE

FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for authority to recover prudently incurred storm restoration costs related to 2004 storm season that exceed storm reserve balance, by Florida Power & Light Company.) Docket No. 041291-EI) Filed: April 20, 2005

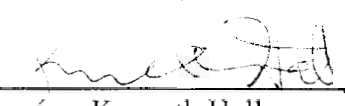
DISTRICT OF COLUMBIA) AFFIDAVIT OF KENNETH HALL)

BEFORE ME, the undersigned authority, personally appeared Ken Hall who, being first duly sworn, deposes and says:

1. My name is Kenneth Hall. I am currently employed by the Edison Electric Institute ("EEI") as Director, Security, Transmission and Distribution Operations. My business address is 701 Pennsylvania Ave., N.W. Washington, D.C. 20004. I have personal knowledge of the matters stated in this affidavit.

2. With respect to Exhibit C, I have reviewed the documents and information for which I am listed as Affiant and which are included in Exhibit A to FPL's Request for Confidential Classification of Information Provided in Response to Request for Production No. 24 of the Florida Public Service Commission Staff's Third Set of Requests for Production of Documents ("FPL's Request for Confidential Classification"). Documents or materials that I have reviewed and which are asserted by FPL and EEI to be proprietary confidential business information contain or constitute relative reliability data for EEI member utilities nationwide, including utilities subject to Florida Public Service Commission regulation, for which all of the participating EEI member utilities who have responded to the survey have an expectation of privacy based on EEI's agreement not to disclose such data without each utilities' permission. The analysis is the intellectual property of EEI and disclosure of the information will harm the competitive interests of EEI and all of the participating EEI member utilities, as well as EEI's ability to gather the information necessary to prepare this type of report in the future, to FPL's detriment. Some of the information in the confidential documents is aggregate data from which the underlying confidential information could be gleaned. Disclosure of this information would similarly harm the competitive interests of EEI and all of the participating EEI member utilities and consequently, FPL's interest in having such report available with as many data inputs as possible. To the best of my knowledge, the confidentiality of these documents and materials has been maintained.

3. Affiant says nothing further.



Kenneth Hall

SWORN TO AND SUBSCRIBED before me this 25 day of April 2005, by
Kenneth Hall, who is personally known to me and who did take an oath.

Dorothy L. Hutchinson

Notary Public, State of Florida

Washington, D C

My Commission Expires:

Dorothy L. Hutchinson
Notary Public, District of Columbia
My Commission Expires 09-30-2006