



Natalie F. Smith  
 Attorney  
 Florida Power & Light Company  
 700 Universe Boulevard  
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ORIGINAL

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COMMISSION  
 CLERK

August 4, 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  
 Materials Provided in the Environmental Cost Recovery Clause  
 Audit No. 05-033-4-1 - Docket No. 050007-EI**

Dear Ms. Bayó:

Enclosed for filing in the above-referenced docket are the original and two (2) copies of Florida Power & Light Company's ("FPL's") Request for Confidential Classification of Materials Provided in the Environmental Cost Recovery Clause Audit No. 05-033-4-1. The original includes Exhibits A, B, C and D. The 2 copies include only exhibit C.

Exhibit A consists of copies of certain documents provided 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 Word.

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

- CMP \_\_\_\_\_
- COM \_\_\_\_\_
- CTR \_\_\_\_\_
- ECR \_\_\_\_\_
- GCL 1
- GPC \_\_\_\_\_
- RCA 1
- SCR \_\_\_\_\_
- SGA \_\_\_\_\_
- SEC 1
- OTH 1 copy

NFS:ec  
 Enclosures

Iliana Piedra, Audit Manager, FPSC (without enclosures)

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DOCUMENT NUMBER-DATE

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FPSC-COMMISSION CLERK

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Environmental Cost Recovery Clause. )  
)  
)  
\_\_\_\_\_ )

DOCKET NO. 050007-EI  
FILED: August 4, 2005

**FLORIDA POWER & LIGHT COMPANY'S  
REQUEST FOR CONFIDENTIAL CLASSIFICATION OF  
MATERIALS PROVIDED IN THE ENVIRONMENTAL  
COST RECOVERY CLAUSE AUDIT NO. 05-033-4-1**

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 Request for Confidential Classification of certain material provided to the Florida Public Service Commission ("FPSC" or "Commission") staff ("Staff") in connection with the Environmental Cost Recovery Clause Audit (Audit Control No. 05-033-4-1) (the "Audit"). In support of its Request, FPL states as follows:

1. During the Audit, Staff requested access to various FPL reports and other documents. By letter dated July 14, 2005, Staff indicated its intent to retain certain workpapers for which confidential treatment previously had been requested (the "Workpapers"). Pursuant to Rule 25-22.006(3)(a), FPL was given 21 days from the date of that letter, or until August 4, 2005, to file a formal Request for Confidential Classification with respect to the Workpapers. By this pleading, FPL makes such request.

2. The following exhibits are included with and made a part of this request:  
a. Composite Exhibit A consists of copies of the Workpapers, on which all information that FPL asserts is entitled to confidential treatment has been

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FPSC-COMMISSION CLERK

highlighted. Composite Exhibit A is submitted separately in a sealed folder marked “CONFIDENTIAL.”

b. Composite Exhibit B consists of an edited version of Exhibit A on which all information FPL asserts is entitled to confidential treatment has been redacted.

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.

d. Exhibit D is comprised of the affidavits of Korel M. Dubin and Robert Onsgard in support of FPL’s Request.

3. FPL seeks confidential protection for the information highlighted in Exhibit A. The highlighted information is proprietary confidential business information within the meaning of Section 366.093(3). The information is intended to be, and has been, treated by FPL as confidential.

4. Pursuant to Section 366.093, the information highlighted in Exhibit A 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.

5. The statutory bases for FPL's assertion of confidentiality with regard to each document or portion thereof are set forth in Exhibit C under the column titled "FLORIDA STATUTE 366.093(3)." The letters in that column refer to the subsection(s) of Section 366.093(3) that provide justification for FPL's request. Further support for FPL's Request for Confidential Classification of the referenced material is provided through the affidavits of Korel M. Dubin and Robert Onsgard, included as Exhibit D to this request.

6. The information FPL asserts is proprietary and confidential business information, described in Exhibits C and D, includes customer-specific account information. FPL has a corporate policy not to disclose customer-specific information. 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. FPL treats such information as confidential and does not disclose it, except as required by law, to entities or persons other than the customer without the permission of the customer.

7. FPL's policy is premised upon customers' right to privacy and the potential that the disclosure of customer specific information may harm some customers' competitive interests or disclose their trade secrets. FPL's customers have affirmed to FPL their interest in having this information maintained confidential. For many of these customers, electric usage is an important part of their production or operating costs. Thus, the disclosure of rate or contract information, as well as consumption levels or patterns, could provide competitors with commercially sensitive information that would afford such competitors an unfair advantage. For others, non-disclosure of the information is simply a matter of privacy. While it may be that disclosure of such information may be more sensitive for some customers than for others, FPL has not sought to make a case-by-case determination as to the level of sensitivity or potential harm with respect to

disclosing a particular customer's information; rather, in deference to its customers, as a matter of policy, and in the interest of customer privacy, FPL has not disclosed to third parties specific rate and contract information for customers unless required by law or unless the customer consents to such disclosure. This policy is important from both a practical and theoretical standpoint. Customers want the assurance that their information is protected to the same extent as any other customer's. Also, practically speaking, it would be a difficult and perhaps impossible task to make a case-by-case determination as to what level of protection each customer's data may merit. This type of confidential information is protected against disclosure by Section 366.093(3)(e).

8. Further, as indicated by the affidavit of Roger Onsgard, certain highlighted information consists of or constitutes internal auditing controls and reports of internal auditors or information relating to same. FPL asserts that such information is proprietary confidential business information pursuant to Section 366.093(3)(b), Florida Statutes.

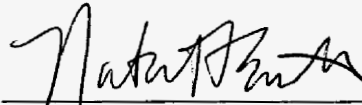
9. Upon a finding by the Commission that the information highlighted in Exhibit A, and referenced in Exhibit C, is proprietary confidential business information, the information should not be declassified for a period of at least eighteen (18) months and should be returned to FPL as soon as the information is no longer necessary for the Commission to conduct its business. *See* § 366.093(4).

**WHEREFORE**, for the above and foregoing reasons, as more fully set forth in the supporting materials and affidavits included with this request, Florida Power & Light Company respectfully requests that its Request for Confidential Classification be granted.

Respectfully submitted,

R. Wade Litchfield, Senior Attorney  
Natalie F. Smith, Esq.  
Florida Power & Light Company  
Law Department  
700 Universe Boulevard  
Juno Beach, FL 33408  
Tele: (561) 691-7100  
Fax: (561) 691-7135  
Attorneys for Florida Power & Light Company

By: \_\_\_\_\_



NATALIE F. SMITH

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of Florida Power & Light Company's Request for Confidential Classification without Attachments was served by United States mail this 4<sup>th</sup> day of August, 2005 to the following:

Ausley Law Firm  
Lee L. Willis/James D. Beasley  
P.O. Box 391  
Tallahassee, FL 32302

Beggs & Lane Law Firm  
Jeffery Stone/Russell Badders  
P.O. Box 12950  
Pensacola, FL 32591-2950

Florida Industrial Power Users Group  
(McWhirter)  
John W. McWhirter, Jr.  
c/o McWhirter Reeves  
400 North Tampa Street, Suite 2450  
Tampa, FL 33601-3350

Gulf Power Company  
Ms. Susan D. Ritenour  
One Energy Place  
Pensacola, FL 32520-0780

Hopping Law Firm  
Gary V. Perko  
P.O. Box 6526  
Tallahassee, FL 32314

McWhirter Law Firm  
Tim Perry  
117 S. Gadsden St.  
Tallahassee, FL 32301

Office of Public Counsel  
Harold McLean/Patricia Christensen  
c/o The Florida Legislature  
111 West Madison St., Room 812  
Tallahassee, FL 32399-1400

Progress Energy Florida, Inc. (McGee)  
James A. McGee  
P.O. Box 14042  
Saint Petersburg, FL 33733-4042

Tampa Electric Company  
Ms. Angela Llewellyn  
Administrator, Regulatory Coordination  
P. O. Box 111  
Tampa, FL 33602

By:   
NATALIE F. SMITH

# **EXHIBIT “C”**

## **JUSTIFICATION TABLE**



**EXHIBIT C**

**COMPANY:** Florida Power & Light Company  
**TITLE:** List of Confidential Workpapers  
**AUDIT:** FPL Environmental Cost Recovery Clause Audit from  
Jan. 1- Dec. 31, 2004  
**AUDIT CONTROL NO:** 05-033-4-1

Workpaper No.	Description	No. of Pages	Conf Y/N	Line No./Col No.	Florida Statute 366.093(3) Subsection	Affiant
9	List of Internal Audits	1	Y	Column C	(b)	R. Onsgard
9-1	Internal Audit	2	Y	p.1-2 All	(b)	R. Onsgard
41-1/1-1	Revenue	2	Y	p.1 lines 1-51, Col. A p.2 lines 1-51, Col. A	(e)	K. Dubin
41-1/1-2	Revenue	2	Y	p.1 lines 1-51, Col. A p.2 lines 1-9, Col. A	(e)	K. Dubin
43-2/2	Expense	2	N			

**EXHIBIT “D”**

**AFFIDAVIT**

BEFORE THE

FLORIDA PUBLIC SERVICE COMMISSION

In re: Environmental Cost ) DOCKET NO. 050007-EI
Recovery Clause. )
) DATED: August 4, 2005

STATE OF FLORIDA )
) AFFIDAVIT OF KOREL M. DUBIN
COUNTY OF MIAMI-DADE )

BEFORE ME, the undersigned authority, personally appeared Korel M. Dubin who, being first duly sworn, deposes and says:

1. My name is Korel M. Dubin. I am currently employed by Florida Power & Light Company ("FPL") as Manager, Regulatory Issues. My business address is 9250 West Flagler Street, Miami, Florida, 33174. 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 Materials Provided Pursuant to Audit No. 05-033-4-1. Documents or materials that I have reviewed and which are asserted by FPL to include customer-specific account information. It is FPL's corporate policy not to disclose customer-specific information. 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. FPL treats such information as confidential and does not disclose it, except as required by law, to entities or persons other than the customer absent the customer's consent. To the best of my knowledge, FPL has maintained the confidentiality of these documents and materials.

3. Affiant says nothing further.

Korel M. Dubin
Korel M. Dubin

SWORN TO AND SUBSCRIBED before me this 1st day of August, 2005, by Korel M. Dubin, who is personally known to me or who has produced (type of identification) as identification and who did take an oath.

Miriam Corzo Garcia
Notary Public, State of Florida

My Commission Expires:



BEFORE THE  
FLORIDA PUBLIC SERVICE COMMISSION

In re: Environmental Cost ) DOCKET NO. 050007-EI  
Recovery Clause. )  
) DATED: August 4, 2005

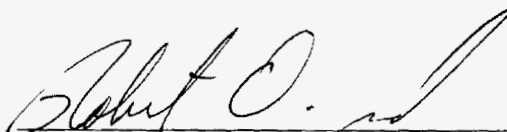
STATE OF FLORIDA )  
)  
COUNTY OF MIAMI-DADE ) **AFFIDAVIT OF ROBERT ONGSARD**

**BEFORE ME**, the undersigned authority, personally appeared Robert Onsgard who, being first duly sworn, deposes and says:

1. My name is Robert Onsgard. I am currently employed by Florida Power & Light Company ("FPL") as Manager, Internal Auditing. My business address is 9250 West Flagler Street, Miami, Florida, 33174. 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 Materials Provided Pursuant to Audit No. 05-033-4-1. Documents or materials that I have reviewed and which are asserted by FPL to be proprietary confidential business information contain or constitute internal auditing controls and reports of internal auditors or information relating to same. To the best of my knowledge, FPL has maintained the confidentiality of these documents and materials.

3. Affiant says nothing further.

  
\_\_\_\_\_  
Robert Onsgard

**SWORN TO AND SUBSCRIBED** before me this 1<sup>st</sup> day of August, 2005, by Robert Onsgard, 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:

