



FPL

Writer's Direct Dial:
(561) 304-5134
(561) 691-7305 (Fax)
Patrick_Bryan@fpl.com (Email)

Florida Power & Light Company, P.O. Box 14000, Juno Beach, FL 33408-0420
Law Department

ORIGINAL

RECEIVED-FPSC

05 OCT -5 AM 10:56

COMMISSION
CLERK

October 4, 2005

VIA OVERNIGHT 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
in re: Fuel and purchased power cost recovery clause with generating
Performance incentive factor – Docket No. 050001-EI**

Dear Ms. Bayó:

Enclosed for filing is the original and two (2) copies of Florida Power & Light Company's (FPL's) Request for Confidential Classification. FPL seeks confidential treatment for certain documents responsive to discovery requests of the Staff ("Staff") of the Florida Public Service Commission in connection with the above-referenced docket. The original includes Exhibits A, B, C and D. The two copies only include Exhibit C.

Exhibit A consists of copies 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 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 an affidavit 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,

Patrick M. Bryan

- CMP _____
- COM _____
- CTR _____
- ECR 1
- GCL 1
- OPC _____
- RCA _____
- SCR _____
- SGA _____
- SEC 1

PMB/bjw
Enclosures

cc: Service List

OTH 1 conf records

RECEIVED & FILED

05 OCT -5 AM 9:28

DOCUMENT NUMBER: DA

09483 OCT-5

BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

In re: Fuel and purchased power)
cost recovery clause with generating)
performance incentive factor.)
_____)

Docket No. 050001-EI

Dated: October 4, 2005

**FLORIDA POWER & LIGHT COMPANY'S
REQUEST FOR CONFIDENTIAL CLASSIFICATION**

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 documents responsive to discovery requests of the Staff ("Staff") of the Florida Public Service Commission served on FPL in this docket. In support of its request, FPL states as follows:

1. The confidential information is contained in answers responsive to Staff's Fifth Set of Interrogatories, No. 51.

2. 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 is the affidavit of Gerard J. Yupp 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.

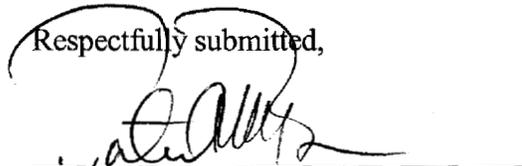
4. As the affidavit indicates, the confidential information consists of information relating to Coal Supply and transportation contract information. If publicly disclosed, this information would harm the competitive interests of FPL and would impair FPL's ability to contract on favorable terms. This 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,



Patrick M. Bryan, Esq.
Fla. Bar No. 0457523
Attorneys for Florida Power & Light Company
700 Universe Boulevard
Juno Beach, Florida 33408-0420
Tel. (561) 304-5134
Fax: (561) 691-7135

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by overnight delivery (*) or U.S. Mail this 4th day of October, 2005 to the following:

Adrienne E. Vining, Esquire(*)
Division of Legal Services
Florida Public Service Commission
2540 Shumard Oak Blvd.
Tallahassee, Florida 32399-0850

Charles J. Beck, Deputy Public Counsel
Patricia A. Christensen, Esquire
Office of Public Counsel
c/o The Florida Legislature
111 West Madison Street, Room 812
Tallahassee, Florida 32399

Lee L. Willis, Esquire
James D. Beasley, Esquire
Ausley & McMullen
Attorneys for Tampa Electric
P.O. Box 391
Tallahassee, Florida 32302

James A. McGee, Esquire
Progress Energy Florida, Inc.
P.O. Box 14042
St. Petersburg, Florida 33733

Timothy J. Perry, Esquire
McWhirter, Reeves,
Davidson, et al.
Attorneys for FIPUG
117 South Gadsden Street
Tallahassee, Florida 32301

Norman H. Horton, Esquire
Floyd R. Self, Esquire
Messer, Caparello & Self
Attorneys for FPUC
215 South Monroe Street, Suite 701
Tallahassee, Florida 32302-0551

John W. McWhirter, Jr., Esquire
McWhirter, Reeves,
Davidson, et al.
Attorneys for FIPUG
P.O. Box 3350
Tampa, Florida 33602

Jeffrey A. Stone, Esquire
Russell A. Badders, Esquire
Beggs & Lane
Attorneys for Gulf Power
P.O. Box 12950
Pensacola, Florida 32576-2950

Jon C. Moyle, Jr. Esquire
Moyle, Flannigan, Katz,
Raymond & Sheehan, P.A.
The Perkins House
118 North Gadsden Street
Tallahassee, Florida 32301

Robert Scheffel Wright, Esquire
John Thomas LaVia, III, Esquire
Landers & Parsons, P.A.
310 West College Avenue
Tallahassee, Florida 32301

Gary V. Perko, Esquire
Hopping Green & Sams
P. O. Box 6525
Tallahassee, FL 32314

By: 
Patrick M. Bryan

EXHIBIT C

EXHIBIT C

COMPANY: Florida Power & Light Company
TITLE: List of Confidential Documents
DOCKET NO.: 050001-EI
DOCKET TITLE: Levelized Fuel Cost Recovery and Capacity Cost Recovery
SUBJECT: Responses to Staff's Fifth Set of Interrogatories
DATE: October 4, 2005

Discovery	Description	No. of Pages	Conf Y/N	Line No.	Florida Statute 366.093(3) Subsection	Affiant
Staff's 5 th Set of Interrogatories	Nos. 1-50		No	N/A	N/A	N/A
Staff's 5 th Set of Interrogatories	No. 51 Pages 1 - 2	2	Y	entire response	(d), (e)	G. Yupp

EXHIBIT D

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Fuel and Purchased Power) DOCKET NO. 050001-EI
Cost Recovery Clause with Generating)
Performance Incentive Factor) DATED: October 3, 2005

STATE OF FLORIDA)
) AFFIDAVIT OF GERARD YUPP
PALM BEACH COUNTY)

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

1. My name is Gerard Yupp. I am currently employed by Florida Power & Light Company ("FPL") as Manager of Regulated Wholesale Power Trading in the Energy Marketing and Trading Division. I have personal knowledge of the matters stated in this affidavit.

2. I have reviewed the documents and information for which I am listed as Affiant in Exhibit C and which are included in Exhibit A to FPL's Request for Confidential Classification of Certain Information Responsive to Staff's Fifth Set of Interrogatories (No. 51). The document that I have reviewed and that FPL asserts in Exhibit C to be proprietary confidential business information, contain or constitute coal supply and transportation contract information. Disclosure of this information would impair the competitive interests of FPL, as well as FPL's ability to contract on favorable terms. To the best of my knowledge, FPL has maintained the confidentiality of these documents and materials.

3. Consistent with the provisions of the Florida Administrative Code, such materials should remain confidential for a period of eighteen (18) months. In addition, they should be returned to FPL as soon as the information is no longer necessary for the Commission to conduct its business so that FPL can continue to maintain the confidentiality of these documents.

4. Affiant says nothing further.

Handwritten signature of Gerard Yupp over a horizontal line, with the name Gerard Yupp printed below.

SWORN TO AND SUBSCRIBED before me this 3rd day of October 2005, by Gerard Yupp, who is personally known to me or who has produced personally known (type of identification) as identification and who did take an oath.

Handwritten signature of Marie B. Lopez over a horizontal line, with the text Notary Public, State of Florida printed below.

My Commission Expires: 7/17/08

