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November 16, 2007

**-VIA OVERNIGHT DELIVERY -**

Ms. Ann Cole, Director  
Division of the Commission Clerk and Administrative Services  
Florida Public Service Commission  
2540 Shumard Oak Blvd.  
Tallahassee, FL 32399-0850

**Re: Docket No. 070001-EI**

Dear Ms. Cole:

I am enclosing for filing in the above docket the original and seven (7) copies of Florida Power & Light Company's Request for Confidential Classification of certain information contained in FPL's late filed Exhibit No. 3, together with a diskette containing the electronic version of same. The enclosed diskette is HD density, the operating system is Windows XP, and the word processing software in which the document appears is Word 2003. Pursuant to Rule 25-22.006, F.A.C., I am also inclosing two redacted copies of the confidential request documents that are the subject of this request. The highlighted copy, Exhibit A was previously submitted together with FPL's Notice of Intent to Request Confidential Classification on October 31, 2007. Please note that Exhibit D (the affidavit of Gerard Yupp) enclosed with the filing is a copy. The original of Mr. Gerard Yupp's affidavit will be provided under separate cover.

If there are any questions regarding this transmittal, please contact me at 561-304-5639.

- CMP \_\_\_\_\_
- COM \_\_\_\_\_
- CTR \_\_\_\_\_
- ECR
- GCL   2   + Diskette
- OPC \_\_\_\_\_ Enclosure
- RCA \_\_\_\_\_ cc: Counsel for Parties of Record (w/encl.)
- SCR \_\_\_\_\_
- SGA \_\_\_\_\_
- SEC \_\_\_\_\_
- OTH   leaf    
  records

Sincerely,

*Damario Rodriguez for J.T. Butler*

John T. Butler

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FPSC-COMMISSION CLERK

**BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

In re: Fuel and Purchased Power ) DOCKET NO. 070001-EI  
Cost Recovery Clause and Generating )  
Performance Incentive Factor ) Filed: November 19, 2007

**REQUEST FOR CONFIDENTIAL CLASSIFICATION OF INFORMATION  
CONTAINED IN FPL'S LATE FILED DEPOSITION EXHIBIT NO. 3**

Pursuant to Section 366.093, Florida Statutes, and Rule 25-22.006, Florida Administrative Code, Florida Power & Light Company ("FPL") requests confidential classification of certain information contained in FPL's Late Filed Exhibit No. 3 to the deposition of FPL witness Gerard Yupp, which was taken on October 30, 2007 by the Commission Staff. In support of its Request, FPL states as follows:

1. At Mr. Yupp's deposition, Staff asked that FPL provide a late filed exhibit showing its cumulative hedging results for natural gas and heavy oil. FPL considers certain information in Late Filed Exhibit No. 3 to be confidential, so when it provided this exhibit to Staff on October 31, 2007 it simultaneously filed a Notice of Intent to Request Confidential Classification. This Request is intended as the formal request for confidential classification with respect to Late Filed Exhibit No. 3 that is contemplated by Rule 25-22.006(3).

2. The following exhibits are included with and made a part of this request:

a. Exhibit A to FPL's Notice of Intent to Request Confidential Classification is incorporated herein by reference. Exhibit A, as previously submitted, consists of a copy of Late Filed Exhibit No. 3 on which all information that FPL asserts is entitled to confidential treatment has been highlighted.

b. Exhibit B consists of an edited version of Late Filed Exhibit No. 3, in which all information that FPL asserts is entitled to confidential treatment has been redacted.

DOCUMENT NUMBER-DATE

c. Exhibit C is a table containing an identification of the information highlighted in Exhibit A, together with references to the specific statutory bases for the claim of confidentiality and to the affidavit in support of the requested classification.

d. Exhibit D is the affidavit of Gerard J. Yupp, who is the Director of Wholesale Operations in the Energy Marketing and Trading Division.

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, 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 in Exhibit D indicates, certain highlighted information consists of contractual data, such as pricing or other terms, the disclosure of which would impair the efforts of FPL to contract for goods or services on favorable terms in the future, to the detriment of FPL and its customers. This information is protected by Section 366.093(3)(d), Florida Statutes. In addition, this information is competitively sensitive data that, if disclosed, would place FPL at a competitive disadvantage. This information is protected by Section 366.093(3)(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), such information should not be declassified for a period of at least

eighteen (18) months. FPL further requests that the material be returned to FPL as soon as the information is no longer necessary for the Commission to conduct its business, pursuant to Section 366.093(4).

**WHEREFORE**, FPL respectfully requests that this Request be granted.

Respectfully submitted,

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By: *Damaris Rodriguez* for J.T. Butler  
John T. Butler  
Fla. Bar No. 283479

**CERTIFICATE OF SERVICE**  
**Docket No. 070001-EI**

I HEREBY CERTIFY that a true and correct copy of the foregoing Request for Confidential Classification of Late Filed Deposition Exhibit No. 3 has been furnished by overnight delivery (\*) or United States Mail this 16<sup>th</sup> day of November, 2007, to the following:

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