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July 18, 2008

08 JUL 21 AM 10:56  
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**-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. 080001-EI**

Dear Ms. Cole:

I am enclosing for filing in the above docket the original and seven (7) copies of (i) Florida Power & Light Company's ("FPL's") Request for Confidential Classification of Certain Information Responsive to Staff's Second Request for Production of Documents (Nos. 11-15) and (ii) FPL's Request for Confidential Classification of Certain Information Responsive to the Florida Industrial Power Users Groups First Set of Interrogatories (Nos. 1-17) and First Request for Production of Documents (Nos. 1-11), 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.

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

Sincerely,  
*Terry J Keith for*  
John T. Butler

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*1 Diskette*  
*Enclosure*  
cc: Counsel for Parties of Record (w/encl.)

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**BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

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In re: Fuel and Purchased Power )  
Cost Recovery Clause and Generating )  
Performance Incentive Factor )

Docket No. 080001-EI  
COMMISSION  
Filed: July 21, 2008 CLERK

**REQUEST FOR CONFIDENTIAL CLASSIFICATION OF INFORMATION  
PROVIDED IN RESPONSE TO THE FLORIDA INDUSTRIAL POWER USERS  
GROUP'S FIRST SET OF INTERROGATORIES AND  
FIRST REQUEST FOR PRODUCTION OF DOCUMENTS**

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 provided in response to the Florida Industrial Power Users Group's ("FIPUG's") First Set of Interrogatories Nos. 1, 2, 4 and 5 and First Request for Production of Documents Nos. 1, 2, 6 and 10 (the "Confidential Discovery Responses"). In support of its Request, FPL states as follows:

1. On June 13, 2008, FIPUG served its First Set of Interrogatories (Nos. 1-17) and First Request for Production of Documents (Nos. 1-11), in order to gather information on FPL's Mid-Course Correction petition filing and hedging program. FPL considers information in the Confidential Discovery Responses to be proprietary confidential business information. FPL filed a notice of intent to seek confidential classification of that information on June 30, 2008, contemporaneously making the information available to FIPUG. Pursuant to Rule 25-22.006(3)(a), FPL has 21 days from the date of the notice of intent to file a formal request for confidential classification. Accordingly, FPL is hereby requesting confidential classification of the information provided in the Confidential Discovery Responses.

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

a. The confidential documents were previously provided with the notice of intent to seek confidential classification filed on June 30, 2008. Those documents are included herein by reference only as "Exhibit A."

b. Composite Exhibit B consists of an edited version of Exhibit A, on which all information in the Confidential Discovery Responses that FPL asserts is entitled to confidential treatment has been redacted. Exhibit B also consists of certain pages identifying the title of the Confidential Discovery Response and noting that the contents of that document are confidential. Because FPL seeks confidential classification of the entire text of some of the Confidential Discovery Responses, no purpose would be served by reproducing a full redacted version of those responses.

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 consists of the affidavit Gerard J. Yupp, Senior Director of wholesale operations in the Energy Marketing and Trading Division, and Antonio L. Maceo, Manager of Auditing in the Internal Auditing Department.

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. This information is intended to be and is treated by FPL as private, and to the best of FPL's knowledge it 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 Gerard J. Yupp and Antonio L. Maceo indicate, the information in Exhibit A is proprietary confidential business information within the meaning of section 366.093(3) for several reasons. Some of the information consists of bids or other contractual data, the disclosure of which would impair the efforts of FPL to contract for goods and services of favorable terms, to the detriment of FPL and its customers. This information is protected by section 366.093(3)(d), Florida Statutes. Certain information is also related to competitive interests, and its disclosure would impair the competitive business of FPL. Such information is protected by section 366.093(3)(e), Florida Statutes. Additionally, some of the Confidential Discovery Responses contain trade secrets of FPL which allow FPL to purchase and sell fuel and electric power on favorable terms for FPL and its customers. The disclosure of that trade secret information would provide other participants in the fuel and electric power markets insight into FPL's marketing and trading practices, and the disclosure of that information would impair FPL's ability to negotiate within those markets, to the detriment of FPL and its customers. This information is protected by section 366.093(3)(a), Florida Statutes. Finally, one Confidential Discovery Response also concerns internal auditing controls and reports of internal auditors. Such information is protected by section 366.093(3)(b).


5. Upon a finding by the Commission that the information highlighted in Exhibit A is proprietary confidential business information within the meaning of section 366.093(3), 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), Florida Statutes.

**WHEREFORE**, FPL respectfully requests confidential classification of the Confidential Discovery Response as described herein.

Respectfully submitted,

R. Wade Litchfield, Esq.  
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By:   
John T. Butler  
Fla. Bar No. 283479

**CERTIFICATE OF SERVICE**

**Docket No. 080001-EI**

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by overnight delivery (\*) or United States mail on July 18, 2008 to the following:

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