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July 21, 2009

**VIA HAND DELIVERY**

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COMMISSION  
CLERK

Ms. Ann Cole  
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: Docket No. 080677-EI and Docket No. 090130-EI

Dear Ms. Cole:

Enclosed for filing on behalf of Florida Power & Light Company ("FPL") are an original and seven (7) copies of its Request for Confidential Classification regarding FPL's Responses to Staff's Third Set of Interrogatories No. 16 and Fourth Set of Interrogatories No. 32. The original includes Exhibit A, two copies of Exhibit B as required by rule, Exhibit C and Exhibit D. The seven (7) copies include Exhibit C and D.

Exhibit A consists of the confidential documents, and all information that FPL asserts is entitled to confidential treatment has been highlighted. 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 table for its Request for Confidential Classification. Exhibit D contains the affidavit of Kathleen Slattery in support of FPL's Request for Confidential Classification. Also included in this filing is a compact disc containing FPL's Request for Confidential Classification and Exhibit C in Microsoft Word format.

Please contact me if you or your Staff has any questions regarding this filing.

Sincerely,

*Jessica Cano*  
Jessica A. Cano

COM \_\_\_\_\_  
GCR S  
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Enclosures  
cc: Parties of Record (w/out enc.)

DOCUMENT NUMBER-DATE

07399 JUL 21 09

FPSC-COMMISSION CLERK

**BEFORE THE  
FLORIDA PUBLIC SERVICE COMMISSION**

In re: Petition for rate increase by )  
Florida Power & Light Company )

Docket No: 080677-EI

In re: 2009 depreciation and dismantlement )  
study by Florida Power & Light Company )

Docket No. 090130-EI  
Served: July 21, 2009

**FLORIDA POWER & LIGHT COMPANY'S REQUEST FOR CONFIDENTIAL  
CLASSIFICATION OF STAFF'S THIRD SET OF INTERROGATORIES NO. 16  
AND STAFF'S FOURTH SET OF INTERROGATORIES NO. 32  
AND REQUEST FOR DETERMINATION BY FULL COMMISSION**

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 competitively sensitive and private compensation information. In support of its request, FPL states as follows:

1. The Staff of the Florida Public Service Commission ("Staff") has requested copies of confidential information contained in FPL's responses to Staff's Third Set of Interrogatories No. 16 and Staff's Fourth Set of Interrogatories No. 32. A Notice of Intent to Request Confidential Classification was filed with respect to this material on July 1, 2009. This request is being filed pursuant to Rule 25-22.006, Florida Administrative Code, to request confidential treatment of the information made available to Staff. FPL understands that similar requests for confidential classification are being made by other electric investor-owned utilities. Given the need for consistency in regulatory determinations on similar issues, and the harm to customers and to FPL's business operations which would result from the disclosure of this information, FPL seeks the determination of the full Commission on this request.

DOCUMENT NUMBER-DATE

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FPSC-COMMISSION CLERK

2. Attached hereto and made a part hereof are the following exhibits: Exhibit A consists of documents for which FPL seeks confidential treatment with the confidential information highlighted; Exhibit B consists of edited versions of the documents with the confidential information redacted; 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 references to the specific statutory basis or bases for the claim of confidentiality and to the affidavit in support of the requested classification; and Exhibit D is a copy of the affidavit of Kathleen Slattery, attesting to the detrimental impacts one would expect to see as a result of the public disclosure of this competitively sensitive compensation information.

3. Section 366.093(3), Florida Statutes, sets forth the types of information which may receive confidential treatment. Specifically, that section states as follows:

Proprietary confidential business information means information, regardless of form or characteristics, which is **owned or controlled by the person or company, is intended to be and is treated by the person or company as private in that the disclosure of the information would cause harm to the ratepayers or the person's or company's business operations, and has not been disclosed** unless disclosed pursuant to a statutory provision, an order of a court or administrative body, or private agreement that provides that the information will not be released to the public. Proprietary confidential business information **includes, but is not limited to:**

- (a) Trade secrets.
- (b) Internal auditing controls and reports of internal auditors.
- (c) Security measures, systems, or procedures.
- (d) Information concerning bids or other contractual data, the disclosure of which would impair the efforts of the public utility or its affiliates to contract for goods or services on favorable terms.
- (e) Information relating to competitive interests, the disclosure of which would impair the competitive business of the provider of the information.
- (f) Employee personnel information unrelated to compensation, duties, qualifications, or responsibilities.

(emphasis added). The statutory standard is clear. Information is entitled to confidential treatment if it: (1) is owned or controlled by the company; (2) is intended to be and is treated by the person or company as private; (3) would cause harm to the ratepayers or the persons' or company's business operations; and (4) has not been disclosed unless disclosed unless pursuant to some order or agreement that further protects the information from public disclosure.

4. The legislature has determined that certain categories of information, i.e., the information listed in subsections (a) through (f), are *automatically* entitled to confidential treatment. But the statute is equally clear that any information that meets the criteria of the statute, as set forth above, is entitled to be protected under Section 366.093. The information subject to this request meets these criteria and should be afforded confidential protection.

5. According to Section 366.093(3)(f), Florida Statutes, personnel information unrelated to compensation is entitled to automatic protection; however, nothing in that section precludes (and in fact the section specifically authorizes) a determination that information related to compensation *should* be afforded confidential treatment if the relevant criteria are met, particularly given the competitively sensitive nature of the information and the harm to customers and the company's operations which would be a direct result of its disclosure.

6. The Commission has recognized its ability to protect competitively sensitive compensation information from public disclosure and has determined on multiple occasions that it was appropriate to do so. In each instance, the information was determined to be competitively sensitive and protected by Section 366.093(3)(e), Florida Statutes. *See*, Order No. PSC-05-0626-PCO-EI, issued June 7, 2005, Docket No. 050078-EI, *In re: Petition for rate increase by Progress Energy Florida, Inc.* (allowing employee compensation information to receive confidential treatment); Order No. PSC-02-1755-CFO-GU, issued December 12, 2002, Docket

No. 020384-GU, *In re: Petition for rate increase by Peoples Gas System* (allowing executive compensation and executive incentive compensation to receive confidential treatment); Order No. PSC-02-1613-PCO-GU, issued November 21, 2002, Docket No. 020384-GU, *In re: Petition for rate increase by Peoples Gas System* (allowing compensation philosophy and incentive compensation to receive confidential treatment); Order No. PSC-02-0050-PCO-EI, issued January 7, 2002, Docket No. 010949-EI, *In re: Request for rate increase by Gulf Power Company* (allowing incentive compensation plan to receive confidential treatment); Order No. PSC-0102528-CFO-EI, issued December 28, 2001, Docket No. 010001-EI, *In re: Fuel and purchased power cost recovery clause and generating performance incentive factor* (allowing employees' names, positions, and factors considered in their compensation to receive confidential treatment). Thus, the Commission, while having full access to as much individual compensation information as it deems appropriate to fulfill its regulatory functions, has consistently agreed that individual compensation information should not be (nor need be) publicly disclosed. The same principles should be upheld and applied in this instance. The Commission and its Staff has requested and been provided with detailed individual compensation information and will review that information in fulfilling its regulatory responsibilities. But public disclosure of the individual information to which the Commission has access by virtue of its regulatory function is wholly unnecessary to those responsibilities and, as discussed in more detail below and supported through the attached affidavit, would cause irreparable harm both to the company as well as its customers. Moreover, such an action would disregard a longstanding fundamental respect for privacy that the Commission's actions in the past have maintained.

7. FPL recognizes that compensation information in aggregated or summary form in some cases may not meet the criteria for confidential treatment and has not sought such treatment

in this instance. For example, in one order denying confidential treatment over summary-level compensation information, the Commission stated that the information that was the subject of that request did not reveal “any specifics of compensation plans or compensation levels *that would cause irreparable harm to [the utility’s] competitive plans.*” (emphasis added). Order No. PSC-02-0235-CFO-EI, issued February 25, 2002, Docket No. 010949-EI, *In re: Request for rate increase by Gulf Power Company*. But the Commission went on to state that “the information is given in total dollar amounts and percentages and does not reveal individual employees’ names, levels, incentive compensation, or bonuses *which would be competitively sensitive or confidential in nature*” (emphasis added). *Id.* Clearly the Commission has recognized the competitively sensitive nature of certain types of compensation information in the past and should do so in this instance as well.

8. FPL has provided, in a publicly available manner, a variety of information related to employee compensation. Consistent with the requirements of the Securities Exchange Commission, FPL publicly discloses specific compensation information for its top officers. In this proceeding, FPL has already provided data related to employees with salaries over \$200,000 as requested. FPL provided summary-level or aggregated data in a publicly available manner, and has made the detail-level information including names and positions available to the Commission and its Staff. A current request for data related to all employees with salaries over \$165,000 is pending, and FPL intends to respond similarly, providing both data that is publicly available and data that is confidential and available to the Commission and its Staff. FPL respectfully submits that it has provided all information requested and has cooperated fully with Staff in response to such requests, and that the Commission and its Staff have all the information needed for purposes of its review. FPL is requesting protection only for information whose

public disclosure would cause the Company and its customers irreparable harm.

9. The specific information that is the subject of this Request continues to be available to the Commission and its Staff. However, it is not consistent with the interests of FPL or its customers to make this information publicly available. FPL operates within a highly competitive market for talented employees. Disclosure of compensation and incentive compensation information would enable competing employers to meet – or beat – the compensation offered by FPL. This would result in (i) the loss of highly skilled and trained employees to competitors and the inability to attract new talent, or (ii) the need to increase the level of compensation and incentives already paid in order to retain these employees and attract new talent. The harm to customers that would directly result is obvious. Overall costs and performance will be affected by such disclosure as the Company is forced to pay to retain, or pay to replace and train new employees. These principles are not unique to electric utilities in Florida. For precisely these same reasons, compensation information not otherwise required to be publicly disclosed by Securities and Exchange Commission rules, is held to be confidential by any major company in the United States. Such competitively sensitive information is entitled to protection pursuant to Section 366.093(3)(e), Florida Statutes.

10. Confidential treatment for salary information linked with employee names is also necessary to protect the individual employees' rights to privacy. In Florida, a citizen's right to privacy is independently protected by the state constitution. *See*, Art. V, § 23, Fla. Const. Accordingly, the citizens of Florida, in amending the state constitution, explicitly recognized individual privacy interests. To protect the privacy interests of its employees (who are not subject to the mandatory disclosure requirements of the Securities and Exchange Commission), FPL will continue to request confidential treatment for individual employees' salaries linked to

their names and titles. FPL maintains this information as confidential and it has not been disclosed.

11. The Commission should determine that the information highlighted in Exhibit A and information linking particular employees to their compensation information is entitled to protection pursuant to Section 366.093(3)(e), Florida Statutes, or alternatively, that this information should be protected as confidential pursuant to the Commission's general authority granted by Section 366.093(3), Florida Statutes, for all the reasons discussed above. 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), Florida Statutes, 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. *See* § 366.093(4), Fla. Stat.

WHEREFORE, for the above and foregoing reasons, the undersigned respectfully request that this Commission determine that (i) confidential classification of this information is available pursuant to Section 366.093(3), Florida Statutes; (ii) disclosure of competitively sensitive compensation information would detrimentally impact FPL and its customers by reducing the quality of service or increasing the cost of service; (iii) disclosure of individual employees' names and salary information would be a violation of their constitutionally protected privacy interests and (iv) this information therefore should be treated as confidential and protected from public disclosure.

Respectfully submitted this 21<sup>st</sup> day of July 2009,

R. Wade Litchfield, Vice President of  
Regulatory Affairs and Chief Regulatory Counsel  
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By: Jessica Cano  
Jessica A. Cano  
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## CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Request for Confidential Classification, without attachments, has been furnished electronically and by United States Mail this 21st day of July, 2009, to the following:

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By: Jessica Cano  
Jessica A. Cano

**Exhibit C**  
**Docket No. 080677-EI**  
**FPL Response to Staff's Third Interrogatories, No. 16**

Page No.	Description	Column and Line No.	Applicable subsection of § 366.093, Fla. Stat	Affiant
Page 1	Base salary net of AMF	Col. a, Lines 3, 5-22, 24-27, 29-44	(3) and (3)(e)	Kathleen Slattery
Page 1	Stock awards net of AMF	Col. b, Lines 3, 5-22, 24-27, 29-44	(3) and (3)(e)	Kathleen Slattery
Page 1	Option awards net of AMF	Col. c, Lines 3, 5-22, 24-27, 29-44	(3) and (3)(e)	Kathleen Slattery
Page 1	Non-equity incentive comp, net of AMF	Col. d, Lines 3, 5-22, 24-27, 29-44	(3) and (3)(e)	Kathleen Slattery
Page 1	All other – net of AMF	Col. e, Lines 3, 5-22, 24-27, 29-44	(3) and (3)(e)	Kathleen Slattery
Page 1	Total compensation – net of AMF	Col. f, Lines 3, 5-22, 24-27, 29-44	(3) and (3)(e)	Kathleen Slattery
Page 1	Allocated to FPL, net of AMF	Col. g, Lines 3, 5-22, 24-27, 29-44	(3) and (3)(e)	Kathleen Slattery
Page 2	Base salary net of AMF	Col. a, Lines 3, 5-22, 24-27, 29-42	(3) and (3)(e)	Kathleen Slattery
Page 2	Stock awards net of AMF	Col. b, Lines 3, 5-22, 24-27, 29-42	(3) and (3)(e)	Kathleen Slattery
Page 2	Option awards	Col. c,	(3) and	Kathleen Slattery

	net of AMF	Lines 3, 5-22, 24-27, 29-42	(3)(e)	
Page 2	Non-equity incentive comp, net of AMF	Col. d, Lines 3, 5-22, 24-27, 29-42	(3) and (3)(e)	Kathleen Slattery
Page 2	All other – net of AMF	Col. e, Lines 3, 5-22, 24-27, 29-42	(3) and (3)(e)	Kathleen Slattery
Page 2	Total compensation – net of AMF	Col. f, Lines 3, 5-22, 24-27, 29-42	(3) and (3)(e)	Kathleen Slattery
Page 2	Allocated to FPL, net of AMF	Col. g, Lines 3, 5-22, 24-27, 29-44	(3) and (3)(e)	Kathleen Slattery
Page 3	Base salary net of AMF	Col. a, Lines 3, 5-22, 24-27, 29-42	(3) and (3)(e)	Kathleen Slattery
Page 3	Stock awards net of AMF	Col. b, Lines 3, 5-22, 24-27, 29-42	(3) and (3)(e)	Kathleen Slattery
Page 3	Option awards net of AMF	Col. c, Lines 3, 5-22, 24-27, 29-42	(3) and (3)(e)	Kathleen Slattery
Page 3	Non-equity incentive comp, net of AMF	Col. d, Lines 3, 5-22, 24-27, 29-42	(3) and (3)(e)	Kathleen Slattery
Page 3	All other – net of AMF	Col. e, Lines 3, 5-22, 24-27, 29-42	(3) and (3)(e)	Kathleen Slattery
Page 3	Total compensation – net of AMF	Col. f, Lines 3, 5-22, 24-27, 29-44	(3) and (3)(e)	Kathleen Slattery
Page 3	Allocated to FPL, net of AMF	Col. g, Lines 3, 5-22, 24-27,	(3) and (3)(e)	Kathleen Slattery

		29-42		
Page 4	Base salary net of AMF	Col. a, Lines 3, 5-22, 24-27, 29-42	(3) and (3)(e)	Kathleen Slattery
Page 4	Stock awards net of AMF	Col. b, Lines 3, 5-22, 24-27, 29-42	(3) and (3)(e)	Kathleen Slattery
Page 4	Option awards net of AMF	Col. c, Lines 3, 5-22, 24-27, 29-42	(3) and (3)(e)	Kathleen Slattery
Page 4	Non-equity incentive comp, net of AMF	Col. d, Lines 3, 5-22, 24-27, 29-42	(3) and (3)(e)	Kathleen Slattery
Page 4	All other – net of AMF	Col. e, Lines 3, 5-22, 24-27, 29-42	(3) and (3)(e)	Kathleen Slattery
Page 4	Total compensation – net of AMF	Col. f, Lines 3, 5-22, 24-27, 29-42	(3) and (3)(e)	Kathleen Slattery
Page 4	Allocated to FPL, net of AMF	Col. g, Lines 3, 5-22, 24-27, 29-42	(3) and (3)(e)	Kathleen Slattery

**Docket No. 080677-EI**

**FPL Response to Staff's Fourth Interrogatories, No. 32**

Page No.	Description	Column and Line No.	Applicable subsection of § 366.093, Fla. Stat	Affiant
Page 1	Base Salary	Col. b, Lines 1-50	(3) and (3)(e)	Kathleen Slattery
Page 1	Overtime	Col. c, Lines 1-50	(3) and (3)(e)	Kathleen Slattery
Page 1	Bonus	Col. d, Lines 1-50	(3) and (3)(e)	Kathleen Slattery
Page 1	Stock Awards	Col. e,	(3) and	Kathleen Slattery

		Lines 1-50	(3)(e)	
Page 1	Option Awards	Col. f, Lines 1-50	(3) and (3)(e)	Kathleen Slattery
Page 1	Non-equity Incentive Comp	Col. g, Lines 1-50	(3) and (3)(e)	Kathleen Slattery
Page 1	All Other	Col. h, Lines 1-50	(3) and (3)(e)	Kathleen Slattery
Page 1	Total Compensation	Col. i, Lines 1-50	(3) and (3)(e)	Kathleen Slattery
Page 1	Net allocation	Col. j, Lines 1-50	(3) and (3)(e)	Kathleen Slattery
Page 2	Base Salary	Col. b, Lines 51-99	(3) and (3)(e)	Kathleen Slattery
Page 2	Overtime	Col. c, Lines 51-99	(3) and (3)(e)	Kathleen Slattery
Page 2	Bonus	Col. d, Lines 51-99	(3) and (3)(e)	Kathleen Slattery
Page 2	Stock Awards	Col. e, Lines 51-99	(3) and (3)(e)	Kathleen Slattery
Page 2	Option Awards	Col. f, Lines 51-99	(3) and (3)(e)	Kathleen Slattery
Page 2	Non-equity Incentive Comp	Col. g, Lines 51-99	(3) and (3)(e)	Kathleen Slattery
Page 2	All Other	Col. h, Lines 51-99	(3) and (3)(e)	Kathleen Slattery
Page 2	Total Compensation	Col. i, Lines 51-99	(3) and (3)(e)	Kathleen Slattery
Page 2	Net allocation	Col. j, Lines 51-99	(3) and (3)(e)	Kathleen Slattery
Page 3	Base Salary	Col. b, Lines 100- 148	(3) and (3)(e)	Kathleen Slattery
Page 3	Overtime	Col. c, Lines 100- 148	(3) and (3)(e)	Kathleen Slattery
Page 3	Bonus	Col. d, Lines 100- 148	(3) and (3)(e)	Kathleen Slattery
Page 3	Stock Awards	Col. e, Lines 100- 148	(3) and (3)(e)	Kathleen Slattery
Page 3	Option Awards	Col. f, Lines 100- 148	(3) and (3)(e)	Kathleen Slattery
Page 3	Non-equity	Col. g,	(3) and	Kathleen Slattery

	Incentive Comp	Lines 100-148	(3)(e)	
Page 3	All Other	Col. h, Lines 100-148	(3) and (3)(e)	Kathleen Slattery
Page 3	Total Compensation	Col. i, Lines 100-148	(3) and (3)(e)	Kathleen Slattery
Page 3	Net allocation	Col. j, Lines 100-148	(3) and (3)(e)	Kathleen Slattery
Page 4	Base Salary	Col. b, Lines 149-171	(3) and (3)(e)	Kathleen Slattery
Page 4	Overtime	Col. c, Lines 149-171	(3) and (3)(e)	Kathleen Slattery
Page 4	Bonus	Col. d, Lines 149-171	(3) and (3)(e)	Kathleen Slattery
Page 4	Stock Awards	Col. e, Lines 149-171	(3) and (3)(e)	Kathleen Slattery
Page 4	Option Awards	Col. f, Lines 149-171	(3) and (3)(e)	Kathleen Slattery
Page 4	Non-equity Incentive Comp	Col. g, Lines 149-171	(3) and (3)(e)	Kathleen Slattery
Page 4	All Other	Col. h, Lines 149-171	(3) and (3)(e)	Kathleen Slattery
Page 4	Total Compensation	Col. i, Lines 149-171	(3) and (3)(e)	Kathleen Slattery
Page 4	Net allocation	Col. j, Lines 149-171	(3) and (3)(e)	Kathleen Slattery

**BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

In re: Petition for rate increase by )  
Florida Power & Light Company )

Docket No. 080677-EI

In re: 2009 depreciation and dismantlement )  
study by Florida Power & Light Company )

Docket No. 090130-EI

STATE OF FLORIDA )  
 )  
PALM BEACH COUNTY )

**AFFIDAVIT OF KATHLEEN SLATTERY**

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

1. My name is Kathleen Slattery. I am currently employed by FPL as Director Executive Services and Business Planning. My business address is 700 Universe Boulevard, Juno Beach, Florida 33408. I have personal knowledge of the matters stated in this affidavit.

2. The documents which are asserted by FPL to include confidential proprietary business information consist of competitively sensitive employee compensation information, which if disclosed, would impair customers' interests in high quality and low cost electric service. FPL operates within a very competitive market for highly skilled and trained executive employees. Public disclosure of compensation and incentive compensation information would enable competing employers to meet or beat the compensation offered by FPL. This would result in the loss of talented employees, including highly skilled employees with expertise in various fields and employees who have completed training programs and courses with FPL, to competitors and the inability to attract new talent, or conversely, the need to increase the level of compensation and incentives already paid in order to retain these employees and attract new talent. The quality of service and the cost of service implications would be detrimental to FPL and its customers. Additionally, this information is private to the employees identified, and disclosure would violate their personal rights to privacy. To the best of my knowledge, FPL has maintained the confidentiality of these documents.

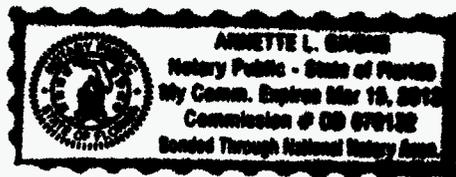
3. Affiant says nothing further.

*Kathleen Slattery*  
\_\_\_\_\_  
Kathleen Slattery

SWORN TO AND SUBSCRIBED before me this 20 day of July, 2009, by Kathleen Slattery who is personally known to me or who has produced ID Badge (type of identification) as identification and who did take an oath.

*Annette L. Givens*  
\_\_\_\_\_  
Annette L. Givens  
Notary Public, State of Florida

My Commission Expires:



STATE OF FLORIDA

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MATTHEW M. CARTER II, CHAIRMAN  
LISA POLAK EDGAR  
KATRINA J. MCMURRIAN  
NANCY ARGENZIANO  
NATHAN A. SKOP



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# Public Service Commission

## ACKNOWLEDGEMENT

DATE: July 21, 2009

TO: Jessica A. Cano, Florida Power & Light Company

FROM: Ruth Nettles, Office of Commission Clerk

RE: Acknowledgement of Receipt of Confidential Filing

This will acknowledge receipt of a **CONFIDENTIAL DOCUMENT** filed in Docket Number 080677/090130 or, if filed in an undocketed matter, concerning staff's 3<sup>rd</sup> set of interrogatories No. 16 and staff's 4<sup>th</sup> set of Interrogatories, No. 32, and filed on behalf of Florida Power & Light Company. The document will be maintained in locked storage.

If you have any questions regarding this document, please contact Marguerite Lockard, Deputy Clerk, at (850) 413-6770.

DOCUMENT NUMBER-DATE  
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