



Ilan Kaufer
 Attorney for
 Florida Power & Light Company
 700 Universe Boulevard
 Juno Beach, FL 33408-0420
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October 14, 2009

VIA HAND DELIVERY

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

RECEIVED-FPSC
 09 OCT 14 PM 4:11
 COMMISSION
 CLERK

Re: Docket No. 090007-EI
 Audit Control No. 09-173-4-1
 Environmental Cost Recovery Clause

Dear Ms. Cole:

Enclosed for filing on behalf of Florida Power & Light Company ("FPL") are an original and seven (7) copies of FPL's Request for Confidential Classification of information provided to Staff pursuant to Audit No. 09-173-4-1. The original includes Exhibits A, B, C and D. The seven (7) copies include Exhibits C and D.

Exhibit A contains confidential information that is subject to FPL's request for confidential classification and is 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 contains the statutory justification for the request for confidential classification. Exhibit D contains the original affidavits of Walter E. Gwinn and Roxane R. Kennedy.

Also included herewith is a computer CD containing FPL's Request for Confidential Classification and Exhibit C. The diskette is HD density, the operating system is Windows XP, and the processing software is Word. Please contact me should you or your Staff have any questions regarding this filing.

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

COM _____
 ECR _____
 GCL + CD
 OPC _____
 RCP _____
 SSC _____ Enclosures
 SGA _____ cc: parties of record (w/out exhibits)
 ADM _____
 CLK _____)

Sincerely,

Ilan Kaufer on behalf of
 Florida Power & Light Company

DOCUMENT NUMBER-DATE

10556 OCT 14 09

FPSC-COMMISSION CLERK

**BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION**

In re: Environmental Cost)
Recovery Clause)
_____)

DOCKET NO. 090007-EI

Filed: October 14, 2009

**REQUEST FOR CONFIDENTIAL CLASSIFICATION OF INFORMATION
PROVIDED PURSUANT TO AUDIT NO. 09-173-4-1**

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 to the Florida Public Service Commission ("FPSC" or "Commission") staff ("Staff") in connection with its supplemental audit of FPL's Environmental Cost Recovery Clause (Audit Control No. 09-173-4-1; hereinafter the "Supplemental ECRC Audit") in this docket. In support of its Request, FPL states as follows:

1. During the Supplemental ECRC Audit, Staff requested access to various FPL reports and other documents, portions of which became working papers of the auditors. By letter dated September 23, 2009, Staff indicated its intent to retain certain working papers for which confidential treatment previously had been requested (the "Working Papers"). Pursuant to Rule 25-22.006(3)(a), FPL was given 21 days from the date of that letter, or until October 14, 2009, to file a formal request for confidential classification with respect to the Working Papers. This Request is intended to request confidential classification of the confidential portions of the Working Papers consistent with Rule 25-22.006(3)(a).

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

a. Composite Exhibit A consists of copies of the Working Papers, on which all information that FPL asserts is entitled to confidential treatment has been highlighted.

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 classification 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 original affidavits of Walter E. Gwinn and Roxane R. Kennedy.

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), Florida Statutes. The information is intended to be, and has been, treated by FPL as private, and its confidentiality has been maintained.

4. Pursuant to Section 366.093, Florida Statutes, 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) SUBSECTION." The letters in that column refer to the subsection(s) of

Section 366.093(3), Florida Statutes, that provide justification for FPL's request. Further support for FPL's request for confidential classification of the referenced information is provided through the affidavits that are included as Exhibit D to this Request. As the affidavits included in Exhibit D indicate, the information provided by FPL contains information concerning bids or other contractual data, the disclosure of which would impair FPL's efforts to contract for goods or services on favorable terms in the future. Such information is protected by section 366.093(3)(d), Florida Statutes. The information provided by FPL also includes information which is competitively sensitive, and its disclosure would impair the competitive interests of FPL or its vendors. Such information is protected by section 366.093(3)(e), Florida Statutes

6. 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 foregoing reasons, Florida Power & Light Company respectfully requests confidential classification of the documents identified in this Request be granted.

Respectfully submitted,

John T. Butler, Managing Attorney
Ilan G. Kaufer, Attorney
Florida Power & Light Company
700 Universe Blvd. – Law/JB
Juno Beach, Florida 33408-0420
Telephone: 561-304-5675
Fax: 561-691-7135

By: 
Ilan G. Kaufer on behalf of
Florida Power & Light Company
Fla. Bar No. 65394

CERTIFICATE OF SERVICE
Docket No. 090007-EI

I HEREBY CERTIFY that a true and correct copy of the foregoing Request for Confidential Classification (*) has been furnished by hand delivery (**) or U.S Mail on October 14, 2009, to the following:

Martha Brown, Esq. **
Division of Legal Services
Florida Public Service Commission
2540 Shumard Oak Blvd.
Tallahassee, Florida 32399-0850

J. R Kelly, Esq
Charles J. Rehwinkel, Esq.
Charles Beck, Esq.
Office of Public Counsel
c/o The Florida Legislature
111 W Madison St. Room 812
Tallahassee, FL 32399-1400

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

John T. Burnett, Esq.
Progress Energy Service Company, LLC
P.O. Box 14042
St. Petersburg, Florida 33733-4042

John W. McWhirter, Jr., Esq.
McWhirter & Davidson, P.A.
P.O. Box 3350
Tampa, Florida 33601-3350
Attorneys for FIPUG

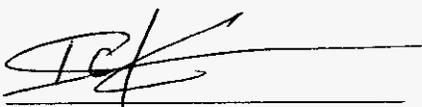
Gary V. Perko, Esq.
Hopping Green & Sams
P.O Box 6526
Tallahassee, FL 32314
Attorneys for Progress Energy Florida

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

Jon C. Moyle, Esq.
Vicki Kaufman, Esq.
Co-Counsel for FIPUG
Keefe, Anchors, Gordon & Moyle, P.A.
118 N. Gadsden St.
Tallahassee, FL 32301

Shayla L. McNeill, Capt., USAF
Counsel for Federal Executive Agencies
AFLSA/JACL-ULT
139 Barnes Drive, Suite 1
Tyndall AFB, FL 32403-5319

By: _____


Ilan G. Kaufer
Fla. Bar No. 65394

* The exhibits to this Request are not included with the service copies, but copies of Exhibits B, C and D are available upon request.

Exhibit C

Justification Table

EXHIBIT C

COMPANY: Florida Power & Light Company
TITLE: List of Confidential Work Papers
AUDIT: FPL, Environmental Cost Recovery Supplemental
AUDIT CONTROL NO: 09-173-4-1
DOCKET NO. 090007- EI

Work paper No.	Description	No. of Pages	Conf. Y/N	Line No./Col. No.	Florida Statute 366.093(3) Subsection	Affiant
16-17/4-1	SAMPLE	2	Y	Pg. 1, Lines 14 - 15	(d), (e)	R. Kennedy
			N	Pg. 2		
16-17/5-1	SAMPLE	5	N	Pg. 1	(d), (e)	R. Kennedy
			N	Pg. 2		
			N	Pg. 3		
			Y	Pg. 4, Line 32		
			N	Pg. 5		
16-17/6-1	SAMPLE	2	N	Pg. 1	(e)	R. Kennedy
			Y	Pg. 2, Line 5		
16-17/6-1/1	SAMPLE	1	N			
16-18-2	SAMPLE	2	N			
16-25/2	SAMPLE	22	Y	Pgs. 1 -22, Columns A - C	(d), (e)	S. Gwinn
16-25/3	LEASE	1	N			
16-25/3-1	LEASE	31	N			

Exhibit D

AFFIDAVITS

EXHIBIT D

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

Environmental Cost Recovery Clause)
_____)

Docket No: 090007-EI

STATE OF FLORIDA)

COUNTY OF PALM BEACH)

AFFIDAVIT OF ROXANE R. KENNEDY

BEFORE ME, the undersigned authority, personally appeared Roxane R. Kennedy who, being first duly sworn, deposes and says:

1. My name is Roxane R. Kennedy. I am currently employed by Florida Power & Light Company ("FPL") as Vice President of Production Assurance and Business Services. I have personal knowledge of the matters stated in this affidavit.

2. With respect to Exhibit C, I have reviewed the documents for which I am listed as Affiant and that are included in Exhibit A to FPL's Request for Confidential Classification of Information provided pursuant to Audit No. 09-173-4-1. The documents or materials that I have reviewed and which are asserted by FPL to be proprietary confidential business information contain or constitute information concerning bids or other contractual data, the disclosure of which would impair FPL's efforts to contract for goods or services on favorable terms in the future. Additionally, the documents contain information relating to competitive interests, the disclosure of which would impair the competitive business of the provider of the information. Specifically, the information provided by FPL contains vendor invoices and cash voucher transaction summaries that were provided to the Staff Auditors. 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 not less than 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.



Roxane R. Kennedy

SWORN TO AND SUBSCRIBED before me this 9 day of October 2009, by Roxane R. Kennedy, 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:

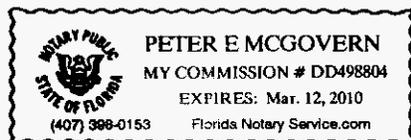


EXHIBIT D

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

Environmental Cost Recovery Clause)
_____)

Docket No: 090007-EI

STATE OF FLORIDA)

COUNTY OF PALM BEACH)

AFFIDAVIT OF WALTER E. GWINN

BEFORE ME, the undersigned authority, personally appeared Walter E. Gwinn who, being first duly sworn, deposes and says:

1. My name is Walter E. Gwinn. I am currently employed by Florida Power & Light Company ("FPL") as Director of Construction in the Engineering and Construction Business Unit. I have personal knowledge of the matters stated in this affidavit.

2. With respect to Exhibit C, I have reviewed the documents for which I am listed as Affiant and that are included in Exhibit A to FPL's Request for Confidential Classification of Information provided pursuant to Audit No. 09-173-4-1. The documents or materials that I have reviewed and which are asserted by FPL to be proprietary confidential business information contain or constitute information concerning bids or other contractual data, the disclosure of which would impair FPL's efforts to contract for goods or services on favorable terms in the future. Additionally, the documents contain information relating to competitive interests, the disclosure of which would impair the competitive business of the provider of the information. Specifically, the information provided by FPL contains vendor invoices and cash voucher transaction summaries that were provided to the Staff Auditors. 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 not less than 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.



Walter E. Gwinn

SWORN TO AND SUBSCRIBED before me this 9 day of October 2009, by Walter E. Gwinn, 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: 5/29/2012



COMMISSIONERS:
MATTHEW M. CARTER II, CHAIRMAN
LISA POLAK EDGAR
NANCY ARGENZIANO
NATHAN A. SKOP

STATE OF FLORIDA



OFFICE OF COMMISSION CLERK
ANN COLE
COMMISSION CLERK
(850) 413-6770

Public Service Commission

ACKNOWLEDGEMENT

DATE: October 14, 2009

TO: Ilan Kaufer, 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 090007 or, if filed in an undocketed matter, concerning information provided to staff in connection with supplemental Audit Control No. 09-173-4-1, 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
10557 OCT 14 09
FPSC - COMMISSION CLERK

CAPITAL CIRCLE OFFICE CENTER • 2540 SHUMARD OAK BOULEVARD • TALLAHASSEE, FL 32399-0850
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