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May 28, 2010

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

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COMMISSION
CLERK

Re: Docket No. 060224-EI

Dear Ms. Cole:

Enclosed for filing on behalf of Florida Power & Light Company ("FPL") are an original and seven (7) copies of FPL's Revised Second Request for Extension of Confidential Classification of information provided to Staff pursuant to Audit No. 05-285-4-1. FPL's Second Request for Extension of Confidential Classification and exhibits, dated March 15, 2010, are included herewith by reference.

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

Sincerely,

Jessica Cano
Jessica Cano

Enclosures
cc: Richard Bellak (w/out attachments)

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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Second Request for Extension of)
Confidential Classification of Materials)
Provided in FPL Connect Service Audit)

Docket No. 060224-EI

Filed: May 28, 2010

**FLORIDA POWER & LIGHT COMPANY'S REVISED
SECOND REQUEST FOR EXTENSION OF CONFIDENTIAL CLASSIFICATION
OF MATERIALS PROVIDED IN THE FPL CONNECT SERVICE AUDIT**

NOW BEFORE THIS COMMISSION, through the undersigned counsel, comes Florida Power & Light Company ("FPL") and, pursuant to Rule 25-22.006 of the Florida Administrative Code and Section 366.093 of the Florida Statutes, hereby submits its Revised Second Request for Extension of Confidential Classification granted by Order No. PSC-06-0978-CFO-EI, concerning work papers provided to the Florida Public Service Commission Staff ("Staff") during the FPL Service Connect Process Audit, RCA #05-285-4-1 ("the Audit"), for the year-ended December 31, 2004. In support of this Revised Second Request for Extension of Confidential Classification, FPL states as follows:

1. Petitioner's name and address are:

Florida Power & Light Company
700 Universe Boulevard
Juno Beach, Florida 33408

Orders, notices, or other pleadings related to this request should be served on:

Jessica A. Cano
Principal Attorney
Florida Power & Light Company
700 Universe Boulevard
Juno Beach, Florida 33408

2. On May 12, 2006, FPL filed with the Commission an Amended Request for Confidential Classification of the information provided in connection with the Audit. That filing consisted of the May 12, 2006 Amended Request and Exhibits A through E. On November 2,

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FPLSC-COMMISSION CLERK

2006, FPL amended Exhibit C to the May 12, 2006 Amended Request. By Order No. PSC-06-0978-CFO-EI, the Commission granted FPL's May 12, 2006 Amended Request. FPL adopts and incorporates herein by reference its May 12, 2006 Amended Request and exhibits.

3. On May 16, 2008, FPL filed its First Request for Extension of Confidential Classification granted by Order No. PSC-06-0978-CFO-EI. By Order No. PSC-08-0515-CFO-EI, the Commission granted FPL's First Request for Extension of Confidential Classification. FPL's May 16, 2008 request and exhibits are also incorporated herein by reference.

4. On March 15, 2010, approximately one month after the confidential classification granted by Order No. PSC-08-0515-CFO-EI expired, FPL filed its Second Request for Extension of Confidential Classification of materials provided in connection with the Audit. FPL's Second Request included a Revised Exhibit C and the affidavit of Maria Besada, both of which are incorporated herein by reference. FPL's Second Request and Revised Exhibit C had the effect of reducing the amount of information for which continued confidential treatment is sought. This Revised Second Request for Confidential Classification is being filed to support the continued confidential classification of the limited set of confidential materials despite the lapse in time between the expiration of Order No. PSC-08-0515-CFO-EI and FPL's Second Request.

5. FPL requests that its late filed request be considered on its merits despite being filed out of time. A clerical error resulted in an inadvertent oversight regarding the correct filing deadline for requesting continued confidential treatment of the audit working papers. Upon discovery of the error, FPL immediately completed the process of reviewing the materials, determining which materials warranted continued confidential classification, and preparing the Revised Exhibit C and affidavit.

6. To the best of FPL's knowledge, the audit working papers have been maintained by the Commission consistent with the procedures afforded confidential information during the approximate one-month lapse in time. Accordingly, public disclosure has not occurred. No party or interested person has been or will be prejudiced by the granting of FPL's request for continued confidential treatment.

7. FPL's request may be granted under the principle of "excusable neglect." Where excusable neglect exists, Florida law favors allowing a party to have its controversy decided on the merits. *See Jeyanandarajan v. Freedman*, 863 So. 2d 432, 433 (Fla. 4th DCA 2003); *See also Lloyd's Underwriter's at London v. Ruby, Inc.*, 801 So. 2d 138 (Fla. 4th DCA 2001). Excusable neglect is found "where inaction results from clerical or secretarial error, reasonable misunderstanding, a system gone awry or any other of the foibles to which human error is heir." *Elliott v. Aurora Loan Servs., LLC*, 31 So. 3d 304 (Fla. 4th DCA 2010)(quoting *Somero v. Hendry Gen. Hosp.*, 467 So. 2d 1103, 1106 (Fla. 4th DCA 1985).

8. This Commission has itself applied the principle of "excusable neglect" in connection with a late-filed confidentiality requests. *See, e.g.*, Order No. PSC-04-0857-CFO-EI, issued Sept. 1, 2004 (late filing of confidentiality request due to inadvertent oversight in monitoring deadline for request constituted good cause, and thus did not constitute waiver of confidentiality of the subject information); *see also* Order No. PSC-96-0407-CFO-WS, issued March 21, 1996 (confidentiality request which was late filed due to "inadvertent clerical error" did not constitute waiver of confidentiality).

9. FPL monitors a large volume of orders determining the confidentiality of FPL documents in dozens of docketed and undocketed proceedings, and in the beginning of 2010, was in the process of consolidating and restructuring responsibility for such monitoring efforts.

Clerical errors made at the time that Order No. PSC-08-0515-CFO-EI was issued, and not caught early enough during the restructuring process, resulted in the expiration date oversight. FPL respectfully requests that the Commission consider this to constitute excusable neglect.

10. Turning to the merits of FPL's request, some of the information that was granted confidential classification by Order No. PSC-08-0515-CFO-EI warrants continued treatment as proprietary and confidential business information within the meaning of Section 366.093(3), Fla. Stat. That information is identified in FPL's Revised Exhibit C and supported by the affidavit of Ms. Besada, included with FPL's March 15, 2010 Second Request for Extension of Confidential Classification

11. FPL submits that the information identified as confidential on the Revised Exhibit C continues to be proprietary confidential business information within the meaning of Section 366.093(3), Florida Statutes. As the affidavit provided in the revised Exhibit D indicates, this information consists of trade secrets and information related to competitive interests, the disclosure of which would impair the competitive business of FPL Energy Services ("FPLES"), and for certain information, FPL. Specifically, this material consists of information related to the marketing of and revenues from particular FPLES products, and other items as detailed on the revised Exhibit C. Pursuant to Section 366.093(3)(a) and (e), such materials are entitled to confidential treatment and are exempt from the disclosure provisions of the public records law.

12. The material for which FPL seeks continued confidential classification is intended to be and is treated by FPL as confidential and has not been disclosed. Nothing has changed since the issuance of Order No. PSC-08-0515-CFO-EI to render this information stale or public, such that continued confidential treatment would not be appropriate. Accordingly, FPL requests that the information identified in the revised Exhibit C be granted confidential classification for

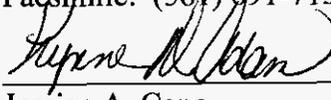
an additional eighteen month period. FPL further requests that the information be returned to FPL as soon as the information is no longer necessary for the Commission to conduct its business.

WHEREFORE, for the above and forgoing reasons, as supported by the exhibits and materials incorporated herein by reference, Florida Power & Light Company respectfully requests that its Revised Second Request for Extension of Confidential Classification be granted.

Respectfully submitted,

Jessica A. Cano
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700 Universe Boulevard
Juno Beach, FL 33408
Telephone: (561) 304-5639
Facsimile: (561) 691-7135

By:



Jessica A. Cano
Fla. Bar No. 0037372

CERTIFICATE OF SERVICE
Docket No. 060224-EI

I HEREBY CERTIFY that a true and correct copy of the foregoing, without attachments, has been furnished by hand delivery this 28th day of May, 2010, to the following:

Richard Bellak
Senior Attorney
Florida Public Service Commission
Office of General Counsel
2540 Shumard Oak Blvd.
Tallahassee, FL 32399-0850

By: 
 Jessica A. Cano
Florida Bar No. 0037372