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October 11, 2010

**VIA Hand Delivery**

Ms. Ann Cole  
Commission Clerk  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, FL 32399-0850

CLAIM OF CONFIDENTIALITY  
 NOTICE OF INTENT  
 REQUEST FOR CONFIDENTIALITY  
 FILED BY OPC

FOR DN 08465-10, WHICH  
IS IN LOCKED STORAGE. YOU MUST BE  
AUTHORIZED TO VIEW THIS DN. - CLK

**Docket No. 100001-EI: Fuel and purchased power cost recovery clause with generating performance incentive factor.**

Dear Ms. Cole:

Enclosed for filing, please find the original and 15 copies of Florida Public Utilities Company's Request for Confidentiality of certain information included in FPUC's Prehearing Statement, filed contemporaneously with this Request. Included with this Request, are one highlighted, and two redacted copies of the information for which the Company seeks confidential treatment.

Thank you for your assistance with this filing. As always, if you have any questions whatsoever about this filing, please do not hesitate to contact me.

Sincerely,

**Beth Keating**  
**AKERMAN SENTERFITT**  
106 East College Avenue, Suite 1200  
Tallahassee, FL 32302-1877  
Phone: (850) 224-9634  
Fax: (850) 222-0103

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Enclosures

cc: Parties of Record

akerman.com

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DOCUMENT NUMBER DATE

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FPSC-COMMISSION CLERK

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Fuel and purchased power cost recovery  
clause with generating performance incentive  
factor. | DOCKET NO. 100001-EI  
| DATED: October 11, 2010

**FLORIDA PUBLIC UTILITIES COMPANY'S REQUEST  
FOR CONFIDENTIAL CLASSIFICATION**

Florida Public Utilities Company ("FPUC" or "Company"), by and through its undersigned attorneys, pursuant to Section 366.093, Florida Statutes, and in accordance with Rule 25-22.006(4), Florida Administrative Code, hereby submits this request for confidential classification of certain information contained in the Company's Prehearing Statement ("Statement"), which has been filed today contemporaneously with this Request.<sup>1</sup> In support thereof, FPUC states:

1. Subsection 366.093(1), Florida Statutes, provides that upon request, records received by the Commission which are "found by the commission to be proprietary confidential business information shall be kept confidential and shall be exempt from s. 119.07(1)."

2. "Proprietary confidential business information" is defined as "information, regardless of form or characteristics, which is owned or controlled by the ... company, is intended to be and is treated by the ... company as private in that the disclosure of the information would cause harm to the ratepayers or the 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." Section 366.093(3), Florida Statutes.

<sup>1</sup> This request is consistent with the Company's request submitted on September 27, 2010, in regards to Document No. 08073-10.

## FPUC Request for Confidential Treatment

3. Proprietary confidential business information includes, but is not limited to, information concerning:

- (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.

Section 366.093(3), Florida Statutes.

4. Florida Public Utilities Company purchases power from Gulf Power Company ("Gulf") and from Jacksonville Electric Authority ("JEA") for distribution to its customers in the its respective Northwest and Northeast Divisions. The agreements pursuant to which FPUC purchases power from these entities were the result of a competitive process.

5. Information contained in the Statement submitted today includes data for which the Company requested confidential classification on September 1, 2010, with regard to the Exhibits of Witness Cutshaw, and again on September 27, 2010, with regard to its Preliminary Statement of Issues and Positions. The specific information for which confidentiality is requested herein is the projected net fuel and purchased power and Generating Performance Incentive amount applicable to FPUC's Northwest Division, as provided in response to Issue 12.

## FPUC Request for Confidential Treatment

The information provided for this Issue as it applies to the Northwest Division would, if disclosed, make public terms and conditions of the negotiated purchased power agreement between FPUC and Gulf Power that both FPUC and its vendor, Gulf Power, consider to be proprietary, confidential business information. As such, this information has not otherwise been disclosed publicly by either FPUC or Gulf.

6. Specifically, Section 366.093(3)(d) and (e), Florida Statutes, protects contractual data and information relating to competitive interests as proprietary, confidential information, and thus, it is exempt from Section 119.07(1), Florida Statutes. In that regard, FPUC seeks confidential treatment of the highlighted information, which is set forth in Exhibit "A". Exhibit "A" has been submitted under seal in accordance with Rule 25-22.006, F.A.C. The information highlighted therein relates to the costs of purchased power that both FPUC and Gulf Power treat as proprietary, confidential business information. The specific information for which confidentiality is requested is the highlighted number located at Page 4 of the Company's Prehearing Statement, under Issue 12, in the Company's stated position with regard to the Northwest Division (Marianna).

7. Disclosure of the information set forth in the Company's Statement would allow competitors to calculate rates and charges that are set forth in the contract between FPUC and Gulf. Both companies treat the highlighted information, as well as any similar such information that could be used to derive the confidential contract rates and terms, as highly confidential information, the disclosure of which could have significant impacts directly upon the ability of either party to contract for services. Such disclosure, be it directly or indirectly, would cause harm to FPUC and its customers, as well as Gulf Power and its customers, by impairing the

FPUC Request for Confidential Treatment

ability of FPUC to negotiate with the vendor and other suppliers in the future on favorable terms. Thus, the information meets the definition of proprietary, confidential business information found in Section 366.093, Florida Statutes. FPUC further notes that the Commission has afforded this same type of information confidential classification in past years.

8. For the foregoing reasons, FPUC respectfully requests that the information identified in Exhibit "A" be deemed proprietary, confidential business information consistent with Section 366.093(d) and (e), and as such, be granted confidential classification.

9. In accordance with Rule 25-22.006(4), Florida Administrative Code. Pursuant to Section 366.093(4), Florida Statutes, and Rule 25-22.006(9), Florida Administrative Code, FPUC requests that the information described above as proprietary confidential business information be protected from disclosure for a period of at least 18 months and asks that all information be returned to the Company as soon as the information is no longer necessary for the Commission to conduct its business.

Respectfully submitted this 11th day of October, 2010.

By:   
Beth Keating  
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*Attorneys for Florida Public Utilities Company*

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by U.S. Mail to the following parties of record this 11th day of October, 2010:

<p>Florida Public Utilities Company                  Thomas A. Geoffroy/Curtis Young                  P.O. Box 3395                  West Palm Beach, FL 33402-3395</p>	<p>Cecilia Bradley, Esq.                  Office of the Attorney General                  PL-01, The Capitol                  Tallahassee, FL 32399-1050</p>
<p>Lisa Bennett, Esq.                  Florida Public Service Commission                  2540 Shumard Oak Boulevard                  Tallahassee, FL 32399</p>	<p>Office of Public Counsel                  Patricia Christensen                  c/o The Florida Legislature                  111 West Madison Street                  Room 812                  Tallahassee, FL 32399-1400</p>
<p>Paula K. Brown                  Tampa Electric Company                  P.O. Box 111                  Tampa, FL 33601-0111</p>	<p>John T. Burnett, Esq.                  Progress Energy Florida, Inc.                  P.O. Box 14042                  St. Petersburg, FL 33733-4042</p>
<p>Paul Lewis, Jr.                  Progress Energy Florida, Inc.                  106 E. College Ave., Suite 800                  Tallahassee, FL 32301</p>	<p>James D. Beasley, Esq.                  J. Jeffrey Wahlen, Esq.                  Ausley &amp; McMullen                  P.O. Box 391                  Tallahassee, FL 32302</p>
<p>Jeffrey A. Stone, Esq.                  Russell A. Badders, Esq.                  Steve R. Griffin, Esq.                  Beggs &amp; Lane                  P.O. Box 12950                  Pensacola, FL 32591-2950</p>	<p>John Butler, Esq.                  Managing Attorney                  Florida Power &amp; Light Company                  700 Universe Boulevard                  Juno Beach, FL 33408-0420</p>
<p>R. Wade Litchfield                  Vice President/Assoc. Gen. Counsel                  Florida Power &amp; Light Company                  700 Universe Boulevard                  Juno Beach, FL 33408-0420</p>	<p>John W. McWhirter, Jr., Esq.                  McWhirter Law Firm                  P.O. Box 3350                  Tampa, FL 33601-3350</p>

FPUC Request for Confidential Treatment

Ms. Susan Ritenour Secretary and Treasurer Gulf Power Company One Energy Place Pensacola, FL 32520-0780	James W. Brew, Esq. Brickfield, Burchette, Ritts & Stone, P.C.. Eighth Floor, West tower 1025 Thomas Jefferson Street, NW Washington, DC 20007
Shayla L. McNeill, Capt. USAF AFLSA/JACL-ULT 139 Barnes Dr., Suite 1 Tyndall AFB, FL 32403-5319	Jon C. Moyle, Jr., Esq. Vicki G. Kaufman, Esq. Keefe, Anchors, Gordon & Moyle 118 North Gadsden St. Tallahassee, FL 32301
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State of Florida



## Public Service Commission

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TALLAHASSEE, FLORIDA 32399-0850

**Beth Keating  
106 E. College Ave  
Suite 1200  
Tallahassee FL 32302**

**Re: Acknowledgement of Confidential Filing in Docket No. 100001-EI**

**This will acknowledge receipt by the Florida Public Service Commission, Office of Commission Clerk, of a CONFIDENTIAL DOCUMENT filed on October 11, 2010, in the above-referenced docket.**

**Document Number 08465-10 has been assigned to this filing, which will be maintained in locked storage.**

**If you have any questions regarding this document, please contact Kim Peña, Records Management Assistant, at (850) 413-6393.**