

claim of confidentiality
 notice of intent
 request for confidentiality
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Ilan Kaufer
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COMMISSION
CLERK

November 9, 2010

VIA HAND DELIVERY

Ms. Ann Cole
Commission Clerk
Florida Public Service Commission
Betty Easley Conference Center
2540 Shumard Oak Boulevard, Room 110
Tallahassee, FL 32399-0850

1000000-OT

Re: Docket No. 100000
Audit Control No. 10-179-4-1
TX603 Regulatory Assessment Fee Audit

Dear Ms. Cole:

Enclosed for filing on behalf of FPL FiberNet, LLC ("FiberNet") are an original and seven (7) copies of FiberNet's Request for Confidential Classification of Materials Provided Pursuant to Audit No. 10-179-4-1. The original includes Exhibits A through D.

Exhibit A consists of the confidential documents, and all the information that FiberNet asserts is entitled to confidential treatment has been highlighted. Exhibit A is submitted for filing separately in a sealed envelope marked "Exhibit A - Confidential". Exhibit B is an edited version of Exhibit A, in which the information FiberNet asserts is confidential has been redacted. Exhibit C consists of a justification table in support of FiberNet's Request for Confidential Classification. Exhibit D contains one affidavit in support of FiberNet's Request for Confidential Classification. Also included in this filing is a compact disc containing FiberNet's Request for Confidential Classification and Exhibit C only, in Microsoft Word format.

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

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4+100 containing request, and exhibit C, (09279-10) also fwd.

Sincerely,



Ilan G. Kaufer

Enclosures
cc: Lisa C. Bennett, Senior Attorney

DOCUMENT NUMBER DATE

09276 NOV-9e

FPSC-COMMISSION CLERK

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: TX603 Regulatory Assessment)
Fee Audit)
Audit Control No. 10-179-4-1)

Docket No. 100000

November 9, 2010

FPL FIBERNET LLC'S REQUEST FOR CONFIDENTIAL CLASSIFICATION OF MATERIALS PROVIDED PURSUANT TO AUDIT NO. 10-179-4-1

Pursuant to Section 366.093, Florida Statutes, and Rule 25-22.006, Florida Administrative Code, FPL FiberNet, LLC ("FiberNet") requests confidential classification of certain material provided to the Staff of the Florida Public Service Commission ("Staff") pursuant to Audit Control No. 10-179-4-1 ("the Audit"). In support of its request, FiberNet states as follows:

1. During the Audit, Staff was provided with various confidential audit work papers. By letter dated October 19, 2010, Staff indicated its intent to retain certain audit work papers. Pursuant to Rule 25-22.006(3)(a), F.A.C., FiberNet is filing this Request for Confidential Classification.

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

a. Exhibit A includes a copy the confidential documents on which all information that is entitled to confidential treatment under Florida law has been highlighted.

b. Exhibit B consists of a copy of the confidential documents on which all information that is entitled to confidential treatment has been redacted.

c. Exhibit C is a table containing the specific line and page references to the confidential materials 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.

d. Exhibit D includes the affidavit of David Eckmann.

DOCUMENT NUMBER-DATE

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FPSC-COMMISSION CLERK

3. FiberNet submits that the highlighted information in Exhibit A is proprietary confidential business information within the meaning of Section 366.093(3), F.S. This information is intended to be and is treated by FiberNet as private, and its confidentiality has been maintained. Pursuant to Section 366.093, F.S., such information is entitled to confidential treatment and it 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.

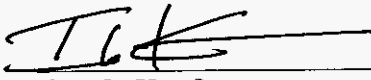
4. As the affidavit included in Exhibit D indicates, the information provided by FiberNet contains or constitutes information relating to competitive interests, the disclosure of which would impair the competitive interest of the provider of the information. Specifically, the materials include information relating to FiberNet's financial operation results. If publicly disclosed, this information would harm FiberNet's competitive interests. Such information is protected by Section 366.093(3)(e), Florida Statutes.

5. 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 FiberNet as soon as the information is no longer necessary for the Commission to conduct its business. See § 366.093(4), F.S.*

WHEREFORE, for the above and foregoing reasons, as more fully set forth in the supporting materials and affidavits included herewith, FPL FiberNet, LLC respectfully requests that its Request for Confidential Classification be granted.

Respectfully submitted,


William P. Cox, Esq.
Senior Attorney
Ilan G. Kaufer, Esq.
Attorneys for
FPL FiberNet, LLC
9250 West Flagler Street
Miami, FL 33174
Telephone: (561) 304-5675
Facsimile: (561) 691-7135

By: 
Ilan G. Kaufer
Fla. Bar No. 0065394

**CERTIFICATE OF SERVICE
DOCKET NO. 100000**

I HEREBY CERTIFY that a true and correct copy of this Request for Confidential Classification was served via hand delivery* or by U.S. Mail this 9th day of November, 2010, to the following:

Lisa C. Bennett, Esq.* Senior Attorney Division of Legal Services Florida Public Service Commission 2540 Shumard Oak Blvd Tallahassee, Florida 32399-0850 LBENNETT@PSC.STATE.FL.US	
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By: 

Ilan G. Kaufer
Fla. Bar. No. 0065394

State of Florida



Public Service Commission

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

Ilan Kaufer
9250 W. Flagler Street
Miami FL 33174

Re: Acknowledgement of Confidential Filing in Docket No. 100000-OT

This will acknowledge receipt by the Florida Public Service Commission, Office of Commission Clerk, of a CONFIDENTIAL DOCUMENT filed on November 9, 2010, in the above-referenced docket.

Document Number 09277-10 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.