



John T. Butler
Managing Attorney
Florida Power & Light Company
700 Universe Boulevard
Juno Beach, FL 33408-0420
(561) 304-5639
(561) 691-7135 (Facsimile)
Email: john.butler@fpl.com

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COMMISSION
CLERK

December 2, 2011

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

claim of confidentiality
 notice of intent
 request for confidentiality
 filed by OPC

110322-EI

For DN 08740-11, which
is in locked storage. You must be
authorized to view this DN.-CLK

Re: Review of Coal Combustion Residual Storage and Disposal Process of the Florida
Electric Industry
Request for Confidential Classification

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 Report And Data Responses Related To Staff's Review Of Coal Combustion Residual Storage And Disposal Process Of The Florida Electric Industry. The original includes Exhibits A, B (two copies), C and a copy of Exhibit D, the original of Exhibit D will be filed under separate cover letter. The seven copies do not include copies of the Exhibits.

Exhibit A consists of the confidential documents, and all the 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 a justification table in support of FPL's Request for Confidential Classification. Exhibit D consists of an affidavit 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 only, in Microsoft Word format.

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

Sincerely,

for *Michael L. Peoples*

John T. Butler
Attorney for
Florida Power & Light Company

COM _____
ECR _____
APA 5 + 10 containing request > exhibits
GCL 1
RAD _____
SRC _____
ADM _____
OPC _____
CLK 1

Enclosures

cc: Lisa Bennett
Victor Cordiano
Carl Vinson

DOCUMENT NUMBER DATE

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FPSC-COMMISSION CLERK

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

Review of Coal Combustion Residual Storage and
Disposal Process of the Florida Electric Industry

Filed: December 2, 2011

**REQUEST FOR CONFIDENTIAL CLASSIFICATION OF REPORT AND DATA
RESPONSES RELATED TO STAFF'S REVIEW OF COAL COMBUSTION RESIDUAL
STORAGE AND DISPOSAL PROCESS OF THE FLORIDA ELECTRIC INDUSTRY**

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 included in the "Review of Coal Combustion Residual Storage and Disposal Process of the Florida Electric Industry" report (the "Report") prepared by the Florida Public Service Commission Office of Auditing and Performance Analysis, and information included in FPL's data responses that Staff reviewed in preparing the Report ("Confidential Data Responses"). In support of its request, FPL states as follows:

1. Staff conducted an investigation regarding coal combustion residual storage and disposal process of the Florida electric industry. During its investigation, Staff was provided with numerous pages of Confidential Data Responses, and FPL contemporaneously served notices of intent to seek confidential classification. Pursuant to Rule 25-22.006(3)(a), Florida Administrative Code, FPL was given 21 days from November 28, 2011 to file a formal request for confidential classification with respect to the Report and Confidential Data Responses. Accordingly, FPL is filing this Request for Confidential Classification to maintain continued confidential handling of the information contained in the Report and data responses.

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2. The following exhibits are included with and made a part of this request:
 - a. Exhibit A includes a copy the confidential Report and Confidential Data Responses, 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 Report and Confidential Data Responses, on which all information that is entitled to confidential treatment has been redacted. Where multiple consecutive pages are confidential, a page labeled “redacted” has been inserted.
 - c. Exhibit C is a table containing the specific line, column or page references to the confidential information, and references to the specific statutory bases for the claim of confidentiality and to the affiant who supports of the requested confidential classification.
 - d. Exhibit D includes the affidavit of Scott Brown.

3. FPL submits that the highlighted information in Exhibit A is proprietary confidential business information within the meaning of Section 366.093(3), Florida Statutes. This information is intended to be and is treated by FPL as private in that the disclosure of the information would cause harm to customers or FPL’s business operations, and its confidentiality has been maintained. Pursuant to Section 366.093, 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, some of information in the Report and Confidential Data Responses is proprietary, confidential business information. The Report and Confidential Data Responses contain or constitute information related to competitive interests, the disclosure of which would impair FPL's and/or Georgia Power's competitive businesses and their ability to contract for goods and services on favorable terms for the benefit of their customers. Specifically, this information relates to Georgia Power's costs, revenues, earnings and management of coal combustion residuals. In addition, some of the other information in the Confidential Data Responses relates to Georgia Power's safety and emergency procedures, which information is confidential because of its security significance. Furthermore, disclosure of this information could impair the competitive interests of the provider of the information. Such information is protected by Section 366.093(3)(c), (d) and (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 FPL as soon as the information is no longer necessary for the Commission to conduct its business. *See* § 366.093(4), Fla. Stat. (2011).

WHEREFORE, for the above and foregoing reasons, as more fully set forth in the supporting materials and affidavits included herewith, Florida Power & Light Company respectfully requests that its Request for Confidential Classification be granted

Respectfully submitted,

John Butler
Managing Attorney
Florida Power & Light Company
700 Universe Boulevard
Juno Beach, FL 33408
Telephone: (561) 304-5639
Facsimile: (561) 691-7135

By: 

John T. Butler
Fla. Bar No. 283479

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing* FPL's Request for Confidential Classification Of Report And Data Responses Related To Staff's Review Of Coal Combustion Residual Storage And Disposal Process Of The Florida Electric Industry was served via hand delivery this 2nd day of December, 2011 to the following:

Lisa Bennett, Esq.
Division of Legal Services
Florida Public Service Commission
2540 Shumard Oak Blvd
Tallahassee, Florida 32399-0850
lbennett@psc.state.fl.us

Victor Cordiano
Carl Vinson
Florida Public Service Commission
2540 Shumard Oak Blvd
Tallahassee, Florida 32399-0850
vcordian@psc.state.fl.us
cvinson@psc.state.fl.us

By: 

John T. Butler
Fla. Bar No. 283479

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