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July 18, 2019

**-VIA HAND DELIVERY-**

Adam Teitzman  
Commission Clerk  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, Florida 32399-0850

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2019 JUL 18 PM 2:20  
COMMISSION  
CLERK

**REDACTED**

**RE: Docket 20190015-EG**

Dear Mr. Teitzman:

Enclosed for filing in the above referenced docket, please find Florida Power & Light Company's ("FPL") Request for Confidential Classification of Information Provided in Response to Staff's Eight Set of Interrogatories No. 88-89. The request includes Exhibits A, B (two copies), C, and D.

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 is a justification table in support of FPL's Request for Confidential Classification. Exhibit D contains the declaration in support of FPL's request.

- COM \_\_\_\_\_
- AFD \_\_\_\_\_
- APA \_\_\_\_\_
- ECO \_\_\_\_\_
- ENG** Exh B
- GCL \_\_\_\_\_
- IDM \_\_\_\_\_
- CLK \_\_\_\_\_

If there are any questions regarding this transmittal, please contact me at (561) 691-7144.

Sincerely,

\_\_\_\_\_  
Christopher T. Wright  
Senior Attorney  
Fla. Auth. House Counsel No. 1007055

cc: Parties of Record

**BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

In re: Commission Review of numeric  
conservation goals of (Florida Power & Light  
Company)

Docket No. 20190015-EG

Filed: July 18, 2019

**FLORIDA POWER & LIGHT COMPANY'S REQUEST FOR  
CONFIDENTIAL CLASSIFICATION OF INFORMATION PROVIDED  
IN RESPONSE TO STAFF OF THE FLORIDA PUBLIC SERVICE  
COMMISSION'S EIGHTH SET OF INTERROGATORIES (NOS. 88-89)**

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 in response to the Staff of the Florida Public Service Commission's ("Staff") Eighth Set of Interrogatories (Nos. 88-89) ("Confidential Discovery Responses"). In support of its Request, FPL states as follows:

1. On June 28, 2019, Staff served its Eighth Set of Interrogatories (No. 83-90) on FPL. FPL's Responses to Staff's Eighth Set of Interrogatories (Nos. 88-89) contain information of a confidential nature within the meaning of Section 366.093(3), Florida Statutes.

2. FPL served its responses to Staff's Eighth Set of Interrogatories (No. 83-90) on July 18, 2019. This request is being filed concurrently with the service of the responses to Staff's discovery in order to request confidential classification of the Confidential Discovery Responses consistent with Rule 25-22.006, Florida Administrative Code.

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

a. Exhibit A consists of a copy of the Confidential Discovery Responses on which all information that FPL asserts is entitled to confidential treatment is highlighted.

b. Exhibit B consists of an edited version of the Confidential Discovery Responses on which all information that FPL asserts is entitled to confidential treatment is redacted.

c. Exhibit C is a table containing a page-and-line identification of the information highlighted in Exhibit A and a brief description of the Confidential Information. Exhibit C also references the specific statutory bases for the claim of confidentiality and identifies the declarants who support the requested classification.

d. Exhibit D contains the declaration of Dr. Steven R. Sim in support of this Request.

4. 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, and its confidentiality has been maintained. Pursuant to Section 366.093, such information is entitled to confidential treatment and is exempt from the disclosure provisions of the public records law. Thus, once the Commission determined 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. As the description included in Exhibit C and the declarations included in Exhibit D indicate, the Confidential Discovery Responses provided by FPL contain information concerning proprietary trade secrets, which was produced for FPL by outside consultants. This vendor requested confidential treatment of this information and FPL is contractually obligated to maintain the information as confidential. Disclosure of such information would impair the vendor's interests and would be a contractual breach on the part of FPL. This information is protected by Section 366.093(3)(a), Fla. Stat.

6. Additionally, this information relates to the competitive interests of FPL's outside vendor. Disclosure of such information would impair the vendor's competitive interests and

would be a contractual breach on the part of FPL. This information is protected by Section 366.093(3)(e), Fla. Stat.

7. Upon a finding by the Commission that the Confidential Information remains proprietary and confidential business information, the information should not be declassified for at least an additional eighteen (18) month period and should be returned to FPL as soon as it is no longer necessary for the Commission to conduct its business. *See* § 366.093(4), Fla. Stat.

**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,

Christopher T. Wright  
Senior Attorney  
Florida Power & Light Company  
700 Universe Boulevard  
Juno Beach, FL 33408  
Telephone: (561) 691-7144  
Facsimile: (561) 691-7135  
Email: Christopher.Wright@fpl.com

By:   
Christopher T. Wright  
Fla. Auth. House Counsel No. 1007055

**CERTIFICATE OF SERVICE  
DOCKET NO. 20190015-EG**

I HEREBY CERTIFY that a true and correct copy of the foregoing was served by electronic delivery this 18th day of July, 2019 to the following:

<p>Margo A. DuVal, Esq. Ashley Weisenfeld, Esq. Division of Legal Services Florida Public Service Commission 2540 Shumard Oak Blvd. Tallahassee, Florida 32399-0850 Mduval@psc.state.fl.us Aweisenf@psc.state.fl.us</p>	<p>J.R. Kelly, Esq. Patricia Christensen, Esq. Office of the Public Counsel c/o The Florida Legislature 111 W. Madison Street, Rm 812 Tallahassee FL 32399 christensen.patty@leg.state.fl.us kelly.jr@leg.state.fl.us</p>
<p>George Cavros, Esq. Southern Alliance for Clean Energy 120 E. Oakland Park Blvd., Suite 105 Fort Lauderdale, FL 33334 george@cavros-law.com Attorney for SACE</p>	<p>Bradley Marshall, Esq. Bonnie Malloy, Esq. Earthjustice 111 S. Martin Luther King Jr. Blvd. Tallahassee, FL 32301 bmarshall@earthjustice.org bmalloy@earthjustice.org Attorneys for SACE</p>
<p>Joan T. Matthews, Esq. / Allan J. Charles, Esq. / Kelley F. Corbari, Esq. Florida Department of Agriculture &amp; Consumer Services Office of General Counsel The Mayo Building 407 S. Calhoun Street, Suite 520 Tallahassee, FL 32399-0800 joan.matthews@freshfromflorida.com allan.charles@freshfromflorida.com kelley.corbari@freshfromflorida.com</p>	<p>Jon C. Moyle, Jr./Karen A. Putnal/Ian E. Waldick c/o Moyle Law Firm, PA 118 North Gadsden Street Tallahassee FL 32301 iwaldick@moylelaw.com jmoyle@moylelaw.com kputnal@moylelaw.com mqualls@moylelaw.com Attorneys for FIPUG</p>
<p>Stephanie U. Eaton 110 Oakwood Drive, Suite 500 Winston-Salem NC 27103 seaton@spilmanlaw.com Attorneys for Walmart Inc.</p>	<p>Derrick Price Williamson/Barry A. Naum 1100 Bent Creek Boulevard, Suite 101 Mechanicsburg PA 17050 dwilliamson@spilmanlaw.com bnaum@spilmanlaw.com Attorneys for Walmart Inc.</p>

By: s/ Christopher T. Wright  
Christopher T. Wright  
Bar Fla. Auth. House Counsel No.  
1007055

# **EXHIBIT B**

**REDACTED**

1 QUESTION:

2 Please explain what the status of the Clean Power Plan is as of July 1, 2019, and explain how, if  
3 at all, the status of the Clean Power Plan affects the CO<sub>2</sub> price forecast FPL relies on in this  
4 proceeding.

5 RESPONSE:

6 The Final Clean Power Plan ("CPP") Rule was released on Oct 23, 2015. The rule was stayed by  
7 the Supreme Court and is not in effect. Challenges to the rule have been held in abeyance by the  
8 DC Circuit Court while the Trump Administration pursues the repeal and replacement of the  
9 rule. On July 8, 2019, EPA's final rule repealing the CPP was published in the Federal Register.  
10 This rule will be effective 60 days after publication.

11 On the same date EPA published the Final Affordable Clean Energy ("ACE") Rule as the  
12 replacement for the CPP. The ACE rule proposes new regulations for future actions under  
13 111(d) that provide direction to EPA and states on the implementation of emission guidelines.  
14 Consistent with the legal arguments in EPA's proposed repeal of the CPP, EPA's ACE rule  
15 proposes emission guidelines based on a determination that technologies or systems that can be  
16 applied at an affected source (inside the fence-line) are the best system of emission reduction  
17 (BSER).

18 Generating units affected by the ACE Rule include coal-fired electric utility steam generating  
19 units. The definition does not include stationary combustion turbines, including combined cycle  
20 units, simple cycle units, or IGCC.

21 The current status of the Clean Power Plan does not directly affect the CO<sub>2</sub> compliance cost  
22 forecast FPL relies on in this proceeding for several reasons. First, at Staff's request, the base  
23 case for FPL's proposed DSM goals assumes no CO<sub>2</sub> compliance costs. Second, also at Staff's  
24 request, analyses for any utility that included CO<sub>2</sub> compliance costs were to utilize a common set  
25 of CO<sub>2</sub> compliance costs. Consequently, DEF and FPL averaged their individual company CO<sub>2</sub>  
26 compliance costs in order to develop a single, composite projection of compliance costs that  
27 were used in analyses for this docket.

28 Third, the projected CO<sub>2</sub> compliance costs that FPL uses in all of its 2019 resource planning  
29 work, and which were the values that were used in developing the above-mentioned composite  
30 projection of CO<sub>2</sub> costs), are provided by an outside consultant, ICF. A

31 [REDACTED]

32 [REDACTED]

33 [REDACTED]

34 [REDACTED]

35 [REDACTED]

36 [REDACTED]

37 [REDACTED]

38 [REDACTED]

**CONFIDENTIAL**

**Florida Power & Light Company  
Docket No. 20190015-EG  
Staff's Eighth Set of Interrogatories  
Interrogatory No. 88  
Page 2 of 2**

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1 QUESTION:

2 Please explain what the status of the Affordable Clean Energy Rule is as of July 1, 2019, and  
3 how, if at all, the status of the Affordable Clean Energy rule affects the CO<sub>2</sub> price forecast FPL  
4 relies on in this proceeding.

5 RESPONSE:

6 On June 19, 2019, EPA Administrator Andrew Wheeler signed a preliminary version of the final  
7 rule referred to as the Affordable Clean Energy (“ACE”) Rule. The final rule was published in  
8 the Federal Register on July 8, 2019. The ACE rule becomes effective sixty days following its  
9 publication in the Federal Register. The rule contains three distinct actions:

- 10 1. Repeal of the Obama Era Clean Power Plan (“CPP”).
- 11 2. Revised emission guidelines in the ACE Rule determining that heat rate improvement  
12 measures are the best system of emission reduction (“BSER”) for reducing GHG  
13 emissions—specifically carbon dioxide (“CO<sub>2</sub>”)—from existing coal-fired units.
- 14 3. New implementing regulations for all emissions guidelines issued under Section  
15 111(d) of the Clean Air Act.

16 Affected generating units include coal-fired electric utility steam generating units. The definition  
17 does not include stationary combustion turbines, including combined cycle units, simple cycle  
18 units or IGCC.

19 States and EPA will have 4.5 years to prepare and finalize the State's Implementation Plan (SIP).  
20 The earliest compliance date is likely winter 2024. The rule is likely to be challenged by states  
21 and environmental groups and implementation may be stayed.

22 The current status of the Affordable Clean Energy Rule is not a factor in the CO<sub>2</sub> compliance  
23 cost forecast FPL relies on in this proceeding for several reasons. First, at Staff's request, the  
24 base case for FPL's proposed DSM goals assumes no CO<sub>2</sub> compliance costs. Second, also at  
25 Staff's request, analyses for any utility that included CO<sub>2</sub> compliance costs were to utilize a  
26 common set of CO<sub>2</sub> compliance costs. Consequently, DEF and FPL averaged their individual  
27 company CO<sub>2</sub> compliance costs in order to develop a single, composite projection of compliance  
28 costs that were used in analyses for this docket.

29 Third, the projected CO<sub>2</sub> compliance costs that FPL uses in all of its 2019 resource planning  
30 work, and which were the values that were used in developing the above-mentioned composite  
31 projection of CO<sub>2</sub> costs), are provided by an outside consultant, ICF. A

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**CONFIDENTIAL**

**Florida Power & Light Company  
Docket No. 20190015-EG  
Staff's Eighth Set of Interrogatories  
Interrogatory No. 89  
Page 2 of 2**

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# **EXHIBIT C**

# **JUSTIFICATION TABLE**

**EXHIBIT C**

**COMPANY:** Florida Power & Light Company  
**TITLE:** List of Confidential Documents  
**DOCKET TITLE:** Commission review of numeric conservation goals (Florida Power & Light Company)  
**DOCKET NO.:** 20190015-EG

<b>Set</b>	<b>Bates No.</b>	<b>Conf. Y/N</b>	<b>Line</b>	<b>Florida Statute 366.093(3) Subsection</b>	<b>Declarant</b>
Staff's 8 <sup>th</sup> Interrogatory No. 88	FPL 004144	Y	Lines: 30A, 31-38	(a), (e)	Steven R. Sim
	FPL 004145	Y	Lines: 39-40		
Staff's 8 <sup>th</sup> Interrogatory No. 89	FPL 004146	Y	Lines: 31A, 32-35		
	FPL 004147	Y	Lines: 36-42		

**EXHIBIT D**

**DECLARATIONS**

**EXHIBIT D**

**BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

In re: Commission review of numeric  
conservation goals (Florida Power & Light  
Company)

Docket No. 20190015-EG

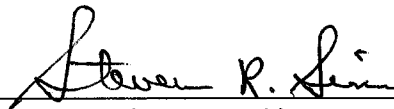
**DECLARATION OF DR. STEVEN R. SIM**

1. My name is Steven R. Sim. I am currently employed by Florida Power & Light Company ("FPL") as Director of Integrated Resource Planning of FPL's Finance Business Unit. I have personal knowledge of the matters stated in this written declaration.

2. I have reviewed the document and information included in Exhibit A to FPL's Request for Confidential Classification filed this date, for which I am listed as the declarant on Exhibit C. The document that FPL seeks to have protected contains proprietary information that was produced for FPL by outside consultants. Specifically, the information consists of FPL's CO<sub>2</sub> compliance cost forecast, which is developed by a third party, ICF. This vendor requested confidential treatment of this information and FPL is contractually obligated to maintain the information as confidential. Disclosure of the proprietary forecast would impair the vendor's competitive interests and would be a contractual breach on the part of FPL. FPL treats these documents as confidential and proprietary. FPL has previously and successfully sought confidential treatment of these materials at the Commission.

3. Consistent with the provisions of the Florida Administrative Code, such materials should remain confidential for a period of eighteen (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. Under penalties of perjury, I declare that I have read the foregoing declaration and that the facts stated in it are true to the best of my knowledge and belief.

  
\_\_\_\_\_  
Steven R. Sim

Date: 7/15/2019