



Florida Power & Light Company, P. O. Box 14000, Juno Beach, FL 33408-0420
Law Department

(561) 691-7101

ORIGINAL

January 8, 1998

VIA HAND DELIVERY

Ms. Blanca S. Bayó, Director
Division of Records and Reporting
Florida Public Service Commission
4075 Esplanade Way, Room 110
Tallahassee, Florida 32399-0850

980002-EG

**RE: Florida Power & Light Company's Request
for Confidential Classification in the Conservation
Cost Recovery Audit
Control No. 97-269-4-1**

Dear Ms. Bayó:

In accordance with Rule 25-22.006, Florida Administrative Code, and Chapter 366.093, Florida Statutes, Florida Power & Light Company ("FPL") hereby submits for filing:

The original and fifteen (15) copies of FPL's Request For Confidential Classification in the Conservation Cost Recovery Audit, including the following exhibits: — 00394-98

One copy of Exhibit A, the confidential documents referred to in FPL's Request, submitted for filing in a separate, sealed folder marked "EXHIBIT A - CONFIDENTIAL"; 00395-98

Two (2) copies of Exhibit B, the same documents referred to in FPL's Request in which the information contended by FPL to be confidential has been redacted, submitted for filing in two separate folders marked "EXHIBIT B:" 00396-98

The original and fifteen (15) copies of Exhibit C, FPL's justification and identification matrix, submitted for filing as an attachment to FPL's Request;

The originals and fifteen (15) copies of Exhibits D and E, affidavits in support of FPL's Request, submitted for filing as attachments to FPL's Request; and

One copy of Exhibit F, a computer diskette containing FPL's identification and justification matrix (in MicroSoft Word 6.0), submitted for filing as an attachment to FPL's request.

RECEIVED & FILED

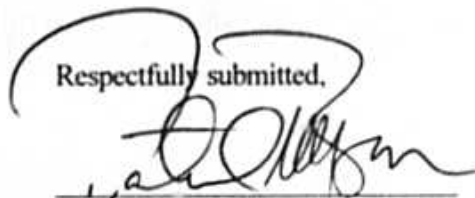
BUREAU OF RECORDS

Ms. Blanca S. Bayó, Director
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Pursuant to Rule 25-22.006(3)(d), FPL requests confidential treatment of these documents pending resolution of FPL's Request for Confidential Classification.

If you or your Staff have any questions regarding this filing, please contact me.

Respectfully submitted,



Patrick M. Bryan
700 Universe Boulevard
Building D-3
Juno Beach, Florida 33408
(561) 691-7101

Attorney for Florida Power
& Light Company

PMB/ak

Enclosures

ORIGINAL

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In the Matter of Florida Power &)
Light Company's Request for)
Confidential Classification in)
the Conservation Cost Recovery)
Audit)
_____)

DOCKET NO. 97⁸0002 EG
FILED: January 8, 1998

**REQUEST FOR CONFIDENTIAL CLASSIFICATION
OF CERTAIN MATERIAL OBTAINED DURING
THE CONSERVATION COST RECOVERY AUDIT**

Florida Power & Light Company ("FPL") hereby requests confidential classification of certain material obtained during the Conservation Cost Recovery Audit (the "Audit") (Audit Control No. 97-269-4-1). This request for confidential classification is filed pursuant to section 25-22.006 of the Florida Administrative Code and section 366.093 of the Florida Statutes. FPL further states:

- 1. Petitioner's name and address are:

Florida Power & Light Company
P.O. Box 029100
Miami, Florida 33102-9100

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

Patrick M. Bryan, Esquire
Florida Power & Light Company
700 Universe Boulevard
Building D-3
Juno Beach, Florida 33408-0420

2. During the Audit, Commission Staff requested access to various FPL internal audit reports, customer account information, contract pricing information for FPL lighting contractors/vendors, employee personnel information unrelated to compensation, duties, qualification or responsibilities, and documents containing certain information which FPL asserts is attorney-client privileged.

DOCUMENT NUMBER-DATE

00394 JAN-88

FPSC-RECORDS/REPORTING

3. The following exhibits are attached hereto or are being filed separately, but contemporaneously herewith:

- a. Composite Exhibit A consists of all documents for which FPL seeks confidential treatment. All information contended by FPL to be entitled to confidential treatment has been highlighted in Composite Exhibit A. Composite Exhibit A is being filed separately in a sealed envelope marked "CONFIDENTIAL."
- b. Composite Exhibit B, attached, consists of all documents for which FPL seeks confidential treatment. All information contended by FPL to be entitled to confidential treatment has been redacted in Composite Exhibit B.
- c. Exhibit C, attached, is a line by line and page by page justification matrix including identification of information for which confidential treatment is sought, and correlation of the confidential information with the specific justification for the claim of confidentiality.
- d. Exhibit D, attached is the affidavit of Rick Del Cueto
Exhibit E, attached is the affidavit of Dennis Brandt
- e. Exhibit F is a computer diskette containing FPL's justification matrix (Exhibit C).

4. The material in Exhibit A for which FPL seeks confidential treatment should not be declassified for a period of at least 18 months and should be returned to FPL in accordance with section 366.093(4) of the Florida Statutes as soon as the information is no longer necessary for the Commission to conduct its business. Since the materials include documents which are derived from or are related to internal audit reports, customer account information, contract pricing information for FPL lighting contractors/vendors, employee personnel information unrelated to compensation, duties, qualification or responsibilities, and documents containing certain information which FPL asserts is attorney-client privileged, the materials should remain confidential while at the Commission and should be returned to FPL so that FPL can maintain the confidential nature of the documents.

5. FPL seeks confidential protection for this information pursuant to Florida Statute Section 366.093(3) which provides in pertinent part:

Proprietary confidential business information means information, regardless of form or characteristics, which is owned or controlled by the person or company, is intended to be and is treated by the person or company as private in that the disclosure of the information would cause harm to the ratepayers or the person's or 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.

Pursuant to Section 366.093, such materials are entitled to confidential treatment and exempt from the mandatory disclosure provisions of the public records law. Thus, once the Commission determines that the information is encompassed by Section 366.093(3), the Commission is not required to balance the danger of disclosure against the public interest in access.

6. Within the justification matrix (Exhibit C) the column marked "FLORIDA STATUTE 366.093(3)" is keyed to justifications for confidentiality contained within the referenced statute. For lines marked "(b)", the justification for confidentiality is that the referenced material is related to or derived from internal auditing reports of internal auditors within the meaning of section 366.093(3)(b) of the Florida Statutes. The justification for confidentiality is more fully set forth in the affidavit of Rick Del Cueto.

For lines marked "(f)", the justification for confidentiality is that the referenced material is related to employee personnel information unrelated to compensation, duties, qualifications, or responsibilities within the meaning of section 366.093(3)(f) of the Florida Statutes.

For lines marked "(g)", the justification for confidentiality is that the information is related to or derived from certain customers' account information. FPL maintains such customer account information in confidence for the benefit of our customers and does not disclose such information to third parties except as required by law or with the permission of the customer. Although such customer account information does not fall squarely within any of the specifically enumerated categories of proprietary confidential business information contained in the non-exhaustive list set forth in section 366.093(3), such information falls within the general definition of "proprietary confidential business information" as set forth in the statute. The pertinent statutory definitional language is set forth above in paragraph 5 of this Request. The justification for confidentiality is more fully set forth in the affidavit of Dennis Brandt.

For lines marked "(h)", the justification for confidentiality is that the information is related to or derived from contract pricing information of certain FPL lighting contractors/vendors. FPL maintains such information in confidence for the benefit of its customers who may have paid for such energy conservation services and for the benefit of the vendors themselves. The disclosure of such contract pricing information would impair the competitive business of the particular vendors involved. FPL does not disclose such information to third parties except as required by law or with the permission of the vendor or customer. Although such lighting contractors/vendors pricing information does not fall squarely within any of the specifically enumerated categories of proprietary confidential business information contained in the non-exhaustive list set forth in section 366.093(3), such information falls within the general definition of "proprietary confidential business information" as set forth in the statute. The pertinent statutory definitional language is set forth above in paragraph 5 of this Request. The justification for confidentiality is more fully set forth in the affidavit of Dennis Brandt.

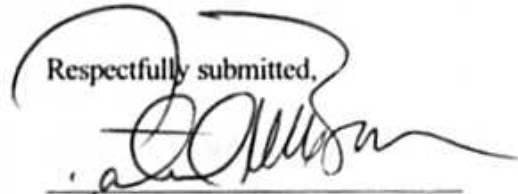
For lines marked "(i)", the justification for confidentiality is that the information consists of or derives from FPL attorney-client privileged information. Specifically, the information pertains to the amount of attorneys' fees FPL has paid to a particular law firm in the prosecution of a currently pending lawsuit.

Such information is attorney-client privileged within the meaning of Florida Statute Section 90.502. FPL maintains such information in confidence. The disclosure of such information could adversely affect FPL in the pending litigation. Although such attorney-client privileged information does not fall squarely within any of the specifically enumerated categories of proprietary confidential business information contained in the non-exhaustive list set forth in section 366.093(3), such information falls within the general definition of "proprietary confidential business information" as set forth in the statute. The pertinent statutory definitional language is set forth above in paragraph 5 of this Request.

CONCLUSION

FPL requests confidentiality protection as to the material set out and described in the attached confidentiality justification matrix (Exhibit C).

Respectfully submitted,



PATRICK M. BRYAN, ESQUIRE
700 Universe Boulevard
Building D-3
Juno Beach, Florida 33408-0420
(561) 691-7101

Attorney for Florida Power
& Light Company

Exhibit A

CONFIDENTIAL DOCUMENTS

(SUBMITTED SEPARATELY)

Exhibit B

REDACTED DOCUMENTS

(SUBMITTED SEPARATELY)

Exhibit C

Justification Matrix

LIST OF CONFIDENTIAL WORKPAPERS

CONSERVATION COST RECOVERY AUDIT

EXHIBIT C

COMPANY: FPL
 TITLE: LIST OF CONFIDENTIAL WORKPAPERS
 AUDIT: CONSERVATION COST RECOVERY AUDIT
 DATE: JANUARY 8, 1998

FLORIDA
 STATUTE
 367.156(3)
 Section:

AFFIDAVIT

| Book No. | WK PAPER NO. | DESCRIPTION | NO. OF PAGES | CONF Y/N | LINE NO./ COLUMN NO. | FLORIDA STATUTE 367.156(3) Section: |
|----------|--------------|--|--------------|----------|--|-------------------------------------|
| N/A | 9 | REPORT DISCLOSURE | 1 | Y | Column C, lines 2-5; 7-12 | (i) |
| N/A | 9-1/5 | NOTES FROM INTERNAL AUDIT WK PAPER | 9 | Y | All | (b) |
| N/A | 10-11 | DOC. RECORD REQ. 11, SHOWING CUSTOMER'S INFORMATION | 1 | Y | Column C, lines 1-6 | (g) |
| N/A | 10-30 | COMPANY'S RESPONSE TO DOCUMENT RECORD REQUEST | 2 | Y | pg. 1, lines 2-5; pg 2, lines 1-5 & 8 | (i) |
| N/A | 41-1/4 | CUSTOMERS' BILLS | 9 | Y | pg. 1-9, lines 2-5 | (g) |
| N/A | 43-8/1 | SAMPLE OF SOURCE CODE 50's | 2 | Y | pg 1-col. A, line 22; col. B, lines 1-28; col. C, lines 22-28; pg 2-col. A, lines 1 & 6; col. B, lines 1-3, 6-8, 13, 19-25, 30; col. C, lines 1-12 | (g)(h)(i) |
| N/A | 43-10/1 | BACKUP TO SAMPLE OF SOURCE CODE 60's SHOWING EMPLOYEE'S NAME AND SOCIAL SECURITY | 1 | Y | column B | (f) |
| N/A | 44-1/1-1/1 | ECCR FOR CILC TARIFFS | 33 | Y | pgs. 1-33, col. A | (g) |
| N/A | 44-1/1-1/1-1 | COMMERCIAL INDUSTRIAL LOAD CONTROL CREDITS-CUST. INFOR. | 1 | Y | lines 2 & 6 | (g) |
| N/A | 44-1/1-1/1-2 | COMMERCIAL INDUSTRIAL LOAD CONTROL CREDITS-CUST. INFOR. | 1 | Y | line 6 | (g) |
| N/A | 44-1/1-1/1-3 | COMMERCIAL INDUSTRIAL LOAD CONTROL CREDITS-CUST. INFOR. | 1 | Y | line 6 | (g) |
| N/A | 44-1/1-1/1-4 | COMMERCIAL INDUSTRIAL LOAD CONTROL CREDITS-CUST. INFOR. | 1 | Y | line 6 | (g) |
| N/A | 44-1/1-1/1-5 | COMMERCIAL INDUSTRIAL LOAD CONTROL CREDITS-CUST. INFOR. | 1 | Y | line 6 | (g) |
| N/A | 44-1/1-1/1-6 | COMMERCIAL INDUSTRIAL LOAD CONTROL CREDITS-CUST. INFOR. | 1 | Y | line 6 | (g) |
| N/A | 44-1/1-1/1-7 | COMMERCIAL INDUSTRIAL LOAD CONTROL CREDITS-CUST. INFOR. | 1 | Y | line 6 | (g) |
| | | | | | | |

Exhibit D

**AFFIDAVIT OF
RICK DEL CUETO**

EXHIBIT D

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

STATE OF FLORIDA)
)
DADE COUNTY)

AFFIDAVIT OF RICK DEL CUETO

Before me the undersigned authority personally appeared Rick Del Cueto who, being first duly sworn, deposes and says:

1. My name is Rick Del Cueto. I am currently employed by Florida Power & Light Company (FPL) as Manager, Internal Auditing. I have personal knowledge of the matters stated in this affidavit.

2. All matters identified as exempt from disclosure pursuant to 366.093(3)(b) consist of information related to internal auditing controls and reports of internal auditors. The confidentiality of the information has been maintained by FPL.

3. The obtained materials should remain confidential for a period of not less than 18 months and 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 maintain the confidential nature of these documents.

4. Affiant says nothing further.

[Handwritten Signature]
Rick Del Cueto

SWORN TO AND SUBSCRIBED before me this 6 day of January, 1998, by Rick Del Cueto, who is personally known to me or who has produced

(type of identification) as identification and who did take an oath.

[Handwritten Signature]
Notary Public, State of Florida



Maura Hernandez
MY COMMISSION # 0028988 EXPIRES
May 25, 2003
BORNED THRU TECH F&S SOLUTIONS, INC

Exhibit E

**AFFIDAVIT OF
DENNIS BRANDT**

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

STATE OF FLORIDA)
)
DADE COUNTY)

AFFIDAVIT OF DENNIS BRANDT

Before me the undersigned authority personally appeared Dennis Brandt who, being first duly sworn, deposes and says:

1. My name is Dennis Brandt. I am currently employed by Florida Power & Light Company (FPL) as Manager of Residential & General Business Marketing. I have personal knowledge of the matters stated in this affidavit.

2. All matters identified as exempt from disclosure pursuant to Florida Statute Section 366.093(3) with lines marked "(g)" on the justification matrix (Exhibit C) consist of information related to or derived from certain customers' account information. Such information is intended to be and is treated by FPL as private in that disclosure of the information could cause harm to its customers. FPL has maintained and continues to maintain the confidentiality of such information and does not disclose such information to third parties except as required by law or with the permission of the customer.

3. All matters identified as exempt from disclosure pursuant to Florida Statute Section 366.093(3) with lines marked "(h)" on the justification matrix (Exhibit C) consist of information related to or derived from contract pricing information of certain FPL energy conservation vendors. Such information is intended to be and is treated by FPL as private in that the disclosure of the information would cause competitive harm to such vendors. FPL has maintained and continues to maintain the confidentiality of such information and does not disclose such information to third parties except as required by law or with the permission of the applicable vendor.

4. The obtained materials should remain confidential for a period of not less than 18 months and 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 maintain the confidential nature of these documents.

5. Affiant says nothing further.


Dennis Brandt

SWORN TO AND SUBSCRIBED before me this 6th day of January 1998, by Dennis Brandt, who is personally known to me or who has produced FL: B65 5-194-55-004-0 (type of identification) as identification and who did take an oath.


Notary Public, State of Florida

My Commission Expires:



Sallee B. Johnson
MY COMMISSION # CC588815 EXPIRES
December 27, 2000
BONDED THRU TROY FAIR INSURANCE, INC.