

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for Determination)
of Need of Hines Unit 2 Power Plant)
_____)

Docket No.: 001064-EI

Submitted for Filing: November 16, 2000

**FLORIDA POWER CORPORATION'S FOURTH
REQUEST FOR CONFIDENTIAL CLASSIFICATION**

Florida Power Corporation ("FPC" or the "Company"), pursuant to Section 366.093, Fla. Stats., and Rule 25-22.006, F.A.C., requests confidential classification of certain information contained in FPC's Late-Filed Exhibit 16, bearing the title "Accounting of Reservation Fee to Siemens Westinghouse for Hines Unit 2" (hereinafter "Late-Filed Exhibit 16"), which was filed under seal with the Florida Public Service Commission ("PSC" or the "Commission"). Late-Filed Exhibit 16 was filed under seal because it contains proprietary, confidential business information which has not been made public.

Introduction

FPC's Late-Filed Exhibit 16 contains proprietary contract information. The Company requested confidential classification of the same or similar proprietary contract information in its Third Request for Confidential Classification filed with the Commission on October 18, 2000. On October 26, 2000, an Order was entered granting FPC's Third Request for Confidential Classification. For the same reasons provided in its Third Request for Confidential Classification, the supporting affidavit of Michael D. Rib filed with that request, and now the Order granting that request, FPC requests confidential classification for Late-Filed Exhibit 16.

Proprietary Contract Information

Subsection 366.093(1) provides that "any records received by the Commission which are shown and found by the Commission to be proprietary confidential business information shall be

kept confidential and shall be exempt from [the Public Records Act].” Proprietary confidential business information means information that is (i) intended to be and is treated as private, confidential information by the Company, (ii) because disclosure of the information would cause harm, (iii) either to the Company’s ratepayers or the Company’s business operations, and (iv) the information has not been voluntarily disclosed to the public. § 366.093(3), Fla.Stats. Contract information the “disclosure of which would impair the efforts of the public utility or its affiliates to contract for goods or services on favorable terms” is specifically defined as proprietary confidential business information. § 366.093(3)(d), Fla.Stats.

Late-Filed Exhibit 16 contains confidential, proprietary contract data between FPC and its equipment supplier for the Hines 2 power plant. The contract terms between FPC and its equipment suppliers fit the statutory definition of proprietary, confidential business information. FPC’s Late-Filed Exhibit 16, therefore, is entitled to protection under Section 366.093 and Rule 25-22.006, F.A.C.

The very purpose of FPC’s negotiations with its equipment suppliers is to obtain potentially favorable contract terms for FPC and its ratepayers. FPC endeavors at all times to negotiate contract terms that will offer lower cost resources or provide more economic value to FPC and its ratepayers. In order to negotiate and obtain such favorable terms, however, FPC must be able to assure potential suppliers that the terms of their negotiations and contracts will be kept confidential. (Affidavit of Michael D. Rib in Support of FPC’s Third Request for Confidential Classification, ¶13).

Without the assurance of confidentiality for the negotiations and the terms of contracts with suppliers, the utility’s “efforts ... to contract for goods or services on favorable terms” will be impaired. §366.093, Fla.Stats. Indeed, if such proprietary contract information is not kept

confidential, and potential suppliers know that the negotiations and terms of their contracts are subject to public disclosure, they will be less willing to make concessions on price, delivery, and other contract terms. (Id.). Rather than make such concessions known to their competitors or other potential customers, thus impairing their ability to compete or negotiate more favorable terms in the future with other customers, they will refuse to negotiate with the Company on such terms at all. (Id.). Or, suppliers who otherwise would have entered into negotiations with the Company might decide not to do so, if there is no assurance that their negotiations and terms would be protected from disclosure. (Id.). In either event, the Company will be able to obtain equipment or services only upon less favorable terms than it otherwise would have if the parties were assured that the terms of their negotiations or contract proposals would remain confidential.

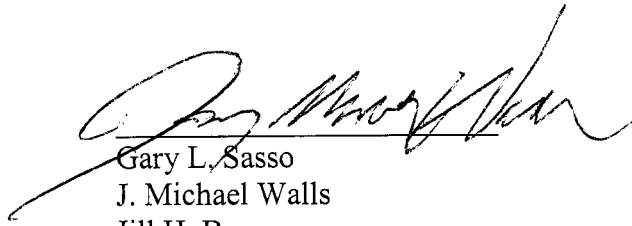
For all these reasons, FPC has treated and continues to treat its proprietary contract information as confidential. (Id., ¶ 12). Access to the information is restricted within FPC to those employees who need the information to perform their duties and responsibilities with the Company. At no time has such proprietary contract information ever been made public. (Id.).

Accordingly, for the foregoing reasons, FPC requests confidential classification for its Late-Filed Exhibit 16.

Conclusion

Attachment A hereto contains a justification matrix supporting FPC's Fourth Request for Confidential Classification of Late-Filed Exhibit 16. The confidential information is identified by page and line. FPC respectfully requests that Late-Filed Exhibit 16 be classified as confidential, for the reasons set forth above.

Respectfully submitted this 16th day of November, 2000.



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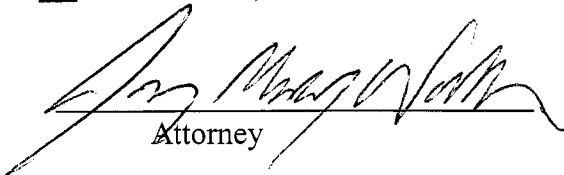
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY THAT a true and correct copy of the foregoing has been furnished by Federal Express to Deborah Hart, Esq., as counsel for the Public Service Commission, and to Suzanne Brownless, Esq., as counsel for Panda International, Inc., and by U.S. Mail to all other interested persons of record as listed below on this 15th of November, 2000.


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ATTACHMENT A

DOCUMENT	PAGE/LINE	JUSTIFICATION
FPC's Late-Filed Exhibit 16	Page 1 of 1, information on lines 1-3	§366.093(3)(d). This is information concerning contract terms and negotiations with FPC's supplier, the disclosure of which would impair the utility's efforts to contract for equipment or services on favorable terms.