### Rose, Sundstrom & Bentley, LLP RECEIVED-FPSC

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Frederick L. Aschauer, Jr. CHRIS H. BENTLEY, P.A. ROBERT C. BRANNAN F. Marshall Deterding MARTIN S. FRIEDMAN, P.A. JOHN J. FUMERO, P.A. BRIDGET M. GRIMSLEY JOHN R. JENKINS, P.A. Kyle L. Kemper

Please Respond to the Lake Mary Office 11 MAY -2 AM 10: 55

COMMISSION **CLERK** 

CHRISTIAN W. MARCELLI STEVEN T. MINDLIN, P.A. THOMAS F. MULLIN CHASITY H. O'STEEN WILLIAM E. SUNDSTROM, P.A. DIANE D. TREMOR. P.A. JOHN L. WHARTON

May 2, 2011

ROBERT M.C. Rose, (1924-2006)

### VIA HAND DELIVERY

Ann Cole, Commission Clerk Office of Commission Clerk Florida Public Service Commission 2540 Shumard Oak Boulevard Tallahassee, FL 32399

notice of intent request for confidentiality filed by OPC is in locked storage. You must be

authorized to view this DN.-CLK

claim of confidentiality

Re:

Audit Control No.: 10-014-4-1

Docket No.: 090531-WS; Application for staff-assisted rate case in Highlands County

by Lake Placid Utilities, Inc. Our File No. 30057.178

Dear Ms. Cole:

Enclosed for filing is Lake Placid Utilities, Inc.'s Second Request for Confidential Classification which is being filed in connection with Staff's Work Papers pertaining to Audit Control No. 10-014-4-1. Also enclosed are three (3) copies of the work papers with the confidential data redacted, and a sealed envelope containing a copy of the work papers with the confidential data highlighted.

Should you or the Staff have any questions, please do not hesitate to give me a call.

Very truly yours,

CHRISTIAN W. MARCELLI

For the Firm

CWM/mp Enclosures

COM _ APA _ ECR _ GCL _ RAD _	cc:	Steven M. Lubertozzi, Executive Dir. of Reg. Acct & Affairs (w/enclosures) (via e-mail) Kirsten E. Weeks, Manager of Regulatory Accounting (w/enclosures) (via e-mail) Patrick C. Flynn, Regional Director (w/enclosures) (via e-mail) Ms. Lydia Roberts, Division of Economic Regulation (w/enclosures) (via e-mail) John Stover, Vice President and Secretary (w/enclosures) (via e-mail) Jennifer Crawford, Esquire, Office of General Counsel (w/enclosures) Stephen Reilly, Associate Public Counsel (w/enclosures)	MENT NUMBER-DATE	2985 HAY -2=	-COMMISSION CLERF
SSC ADM _ OPC		766 N. Sun Drive, Suite 4030, Lake Mary, Florida 32746 (407) 830-6331 Fax (407) 830-8522 2548 Blairstone Pines Drive, Tallahassee, Florida 32301 (850) 877-6555 Fay (850) 656-4029	nopa	0	FPSC

950 Peninsula Corporate Circle, Suite 2020, Boca Raton, Florida 33487 (561) 982-7114 Fax (561) 982-7116

### BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application of LAKE PLACID UTILITIES, INC. for an increase in wastewater rates in Highlands County, Florida

DOCKET NO.: 090531-WS

### LAKE PLACID UTILITIES, INC.'S SECOND REQUEST FOR CONFIDENTIAL CLASSIFICATION

LAKE PLACID UTILITIES, INC. (the "Utility"), by and through its undersigned counsel, files this Request for Confidential Classification for Staff's workpapers in connection with Audit Control No. 10-014-4-1.

- 1. Under Section 367.156, Florida Statutes, this Commission has the authority to classify certain material as proprietary confidential business information. This classification exempts the material from public disclosure under Section 119.07(1), Florida Statutes.
- 2. The Utility requests that certain information created by Staff auditors and information supplied by the Utility in connection with Audit Control No. 10-014-4-1 be classified as proprietary confidential business information under Section 367.156(2), Florida Statutes, and Rule 25-22.06, Florida Administrative Code (the "Confidential Information").
- 3. Included with this Request for Confidential Treatment are highlighted and redacted copies of the information for which confidential treatment is sought.
- 4. If this request is granted, then the subject portions of said response to Audit Control No. 10-014-4-1 will be exempt from Section 119.07(1), Florida Statutes. Attached hereto as Exhibit "A" is a Justification Matrix providing a justification for the COCUMENT NUMBER-DATE

02985 MAY - 2 =

Utility's request. Please note that Staff's workpapers consist of handwritten notes on confidential documents supplied by the Utility. These documents are similar to documents containing salary information that are the subject of pending requests for confidential treatment.

- 5. The Confidential Information is intended to be and is treated by the utility as private and confidential and has not been disclosed externally and has been strictly controlled internally.
- 6. The information consists of employee's name and title, base salary, overtime, raises, taxes, pension information and total compensation. It should be classified as proprietary confidential business information because its disclosure would impair the Utility's competitive interests, provide other utility companies information to lure employees away (thereby driving up salaries and rates), and create circumstances under which infighting and employee morale could be negatively affected. See Florida Power & Light Company et al. v. Public Service Commission, 35 Fla. L. Weekly d516 (Fla. 1st DCA 2010).
- 7. This Confidential Information falls squarely within the definition of "Proprietary confidential business information" pursuant to Section 367.156(3), Florida Statutes.
- 8. Moreover, requiring the disclosure of each employee's compensation information violates each employee's right to privacy under Article I, Section 23 of the Florida Constitution.

9. The Utility filed a Motion for Protective Order and Request for Confidential Treatment when it initially provided the information (approximately March 18, 2010), and filed a Renewed Request for Confidential Treatment on February 25, 2011 covering documents in connection with the subject Audit. However, in both of those instances, it was unclear which documents Staff intended to keep confidential and the Utility could not amend or reassert its prior motion or prepare a new motion because it did not know with specificity which information Staff sought to make public. Upon learning of the existence of Staff's workpapers, the Utility requested such workpapers and filed this request as soon as practicable thereafter. After discussing the matter with Staff auditor Hymavathi Vedula and identifying with specificity the information Staff intended to make public, the Utility filed this Motion within the time allowed.

WHEREFORE, LAKE PLACID UTILITIES, INC. requests confidential treatment and prays for the entry of the protective order that is consistent with this request.

Respectfully submitted on this 29th day of April, 2011 by:

ROSE, SUNDSTROM & BENTLEY, LLP 766 North Sun Drive, Suite 4030 Lake Mary, FL 32746

Telephone: (407) 830-6331 Facsimile: (407) 830 8255

Email: <a href="mailto:cmarcelli@rsbattorneys.com">cmarcelli@rsbattorneys.com</a>

CHRISTIAN MARCELLI

For the Firm

### CERTIFICATE OF SERVICE DOCKET NO. 090531-WS

I HEREBY CERTIFY that a true and correct copy of the foregoing Request for Confidential Classification has been hand delivered to the PSC Clerk and furnished by U.S. Mail to the following parties this 29th day of April, 2011:

Stephen Reilly, Associate Public Counsel. Office of Public Counsel C/o The Florida Legislature 111 W. Madison Street, Room 812 Tallahassee, FL 32399-1400

Jennifer Crawford, Esquire Office of General Counsel Florida Public Service Commission 2540 Shumard Oak Boulevard Tallahassee, FL 32399-0850

CHRISTIAN MARCELLI
For the Firm

### JUSTIFICATION MATRIX

Location	Justification
STAFF WORKPAPERS:	§367.156(3)(d) Disclosure of compensation data, tax data, benefits data, overtime data and salary
Workpaper 59-1/1; Pages 1 to 4	increase data would impair the ability of the Utility to contract for employees on favorable terms.
All of columns A, B, C, D, E, F, G, H, I, J, K, L	
and M with the exception of the final totals at	§367.156(3)(e) Disclosure of the compensation
the end of the respective columns.	data would impair the Utility's competitive
	interests as described in Florida Power & Light
Workpaper 59-1/1-1; Pages 5 to 8	Company et al. v. Public Service Commission, 35
	Fla. L. Weekly d516 (Fla. 1st DCA 2010). The
All of columns A, B, C, D, E, F, G, H, I, J, K, L	Utility keeps this information strictly confidential
and M with the exception of the final totals at	to prevent other utilities from stealing their
the end of the respective columns.	employees and to prevent lowered morale and
	infighting among employees who have the same
	position but varying wages.
	Article I Section 23 of the Florida Constitution
	Article I, Section 23 of the Florida Constitution.  Disclosure of the information would invade the
	privacy rights of the employee.

# CONFIDENTIAL

# REDACTED

DECUMENT NUMBER-DATE 0 2 9 8 5 118Y - 2 =

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LAKE PLACID UTILITIES INC. CONFIDENTIAL INDEX TEST YEAR ENDED DECEMBER 31, 2008 KATHY L. WELCH MARCH 1, 2016

WORKPAPER	DESCRIPTION	PAGES
NUMBER		
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59-1/1-1	PAYROLL LAKE PLACID	4

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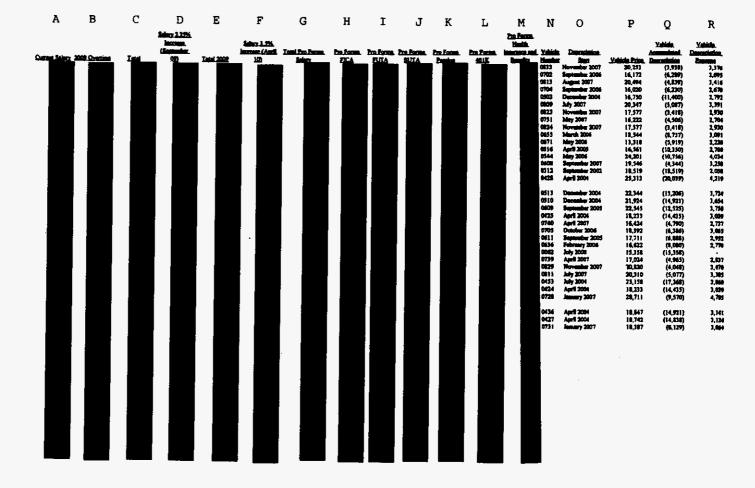
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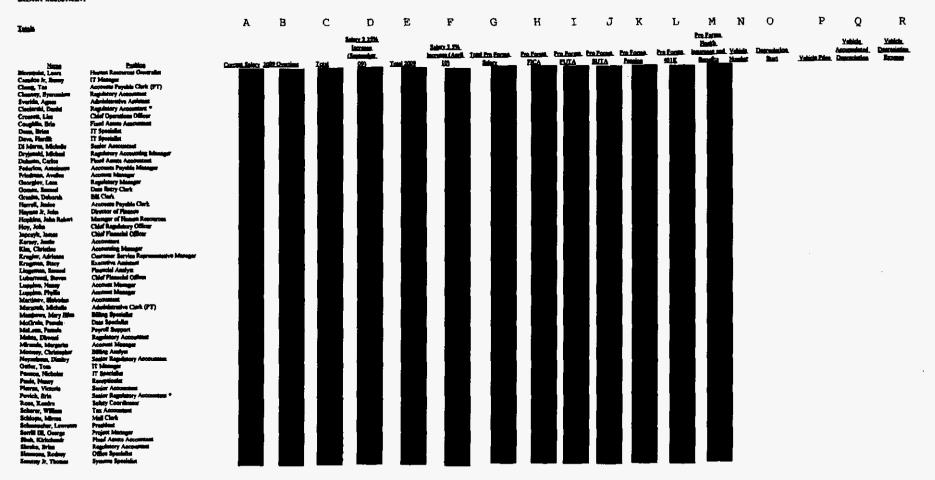
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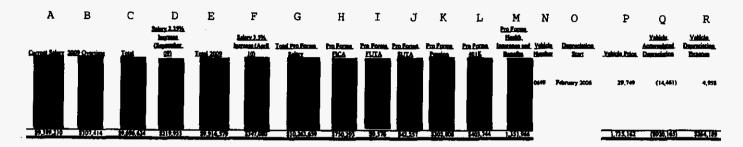
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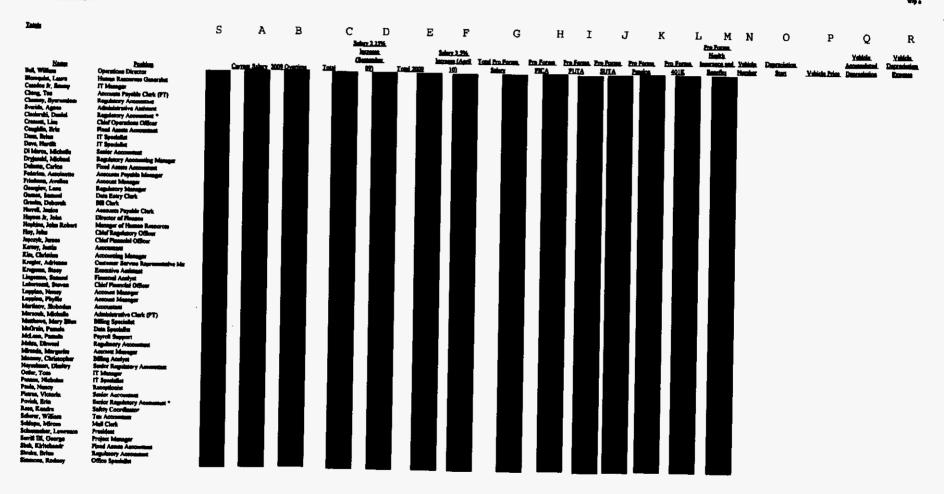
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#### 2000 TY PL RATE CASES BALARY ADJUSTMENT



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#### 2000 TY FL RATE CASES SALARY ADJUSTMENT

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