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ORIGINAL

June 9, 2000

VIA HAND DELIVERY

Ms. Blanca S. Bayó
Director
Division of Records and Reporting
Florida Public Service Commission
Betty Easley Conference Center
2540 Shumard Oak Boulevard
Room 110
Tallahassee, FL 32399-0850

RECEIVED-FPSC
JUN - 9 PM 3: 02
RECORDS AND REPORTING

**Re: Florida Power & Light Company's First Amended
Request for Confidential Classification In Connection With
Its Report Under FAC 25-6.018
Docket No: 991698-EI**

Dear Ms. Bayó:

I enclose and hand you herewith for filing in the above-referenced matter, the original and seven (7) copies of Florida Power & Light Company's ("FPL") First Amended Request for Confidential Classification.

Also included herewith is a computer diskette containing FPL's Request for Confidential Classification in Word Perfect version 6/7/8.

Please do not hesitate to contact me should you or your Staff have any questions regarding this filing.

Sincerely,

R. Wade Litchfield

RWL/jsb

Enclosures

RECEIVED & FILED

FPSC-BUREAU OF RECORDS

(x-ref. 13640-99)
02359-00

DOCUMENT NUMBER-DATE

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BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

In the Matter of Florida Power & Light)
Company's Request for Confidential) Docket No. 991698-EI
Classification in Connection With Its) FILED: June 9, 2000
Report Under FAC 25-6.018)

**FIRST AMENDED REQUEST FOR CONFIDENTIAL CLASSIFICATION
OF CERTAIN MATERIALS PURSUANT TO FAC 25-6.018**

NOW, BEFORE THIS COMMISSION, through undersigned counsel, comes Florida Power & Light Company ("FPL") and, pursuant to section 25-22.006 of the Florida Administrative Code and section 366.093 of the Florida Statutes, hereby files its first amended request for confidential classification of certain materials provided to the Florida Public Service Commission ("FPSC" or "Commission") in connection with reports filed pursuant to Section 25-6.018 of the Florida Administrative Code. In support of its Request, FPL states as follows:

- 1. Petitioner's principal business address is as follows:

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:

William G. Walker, III
Vice President
Florida Power & Light Company
215 South Monroe Street, Ste. 810
Tallahassee, FL 32301-1859
(850) 224-7595
(850) 224-7197 Telecopier

R. Wade Litchfield
Senior Attorney
Florida Power & Light Company
700 Universe Boulevard
Juno Beach, FL 33408-0420
(561) 691-7101
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2. On November 5, 1999 and also on February 21, 2000, FPL filed a Request for Confidential Classification and a report on the interruptions of FPL's Commercial/Industrial Load Control (CILC), Interruptible Standby and Supplemental (ISST), and Curtailable (CS) customers' load ("Report"). FPL submits this amended Request for Confidential Classification in order to provide additional information and reasons in support of its contention that certain information in the two Reports should be maintained as confidential.

3. FPL considers certain information within the two Reports to be proprietary confidential business information within the meaning of section 366.093 of the Florida Statutes. FPL hereby requests confidential classification of such information.

4. Exhibits A, B, and C to each of the requests for confidential classification as originally filed November 5, 1999 and February 21, 2000 are incorporated herein by reference and made a part hereof. These exhibits are described as follows:

- a. Combined, the two Exhibits A consist of all documents for which FPL seeks confidential treatment, whether in whole or in part. The information in each Exhibit A that FPL asserts is entitled to confidential treatment has been highlighted. Each Exhibit A was submitted separately in a sealed folder or carton marked "CONFIDENTIAL" at the time the original requests were filed.
- b. Each Exhibit B is an edited version of the corresponding Exhibit A. The information that FPL asserts is entitled to confidential treatment has been blocked out in each Exhibit B.
- c. Each Exhibit C is a table containing a line-by-line and page-by-page identification of the information for which confidential treatment is sought, and, with regard to each document or portions thereof, references to the specific statutory basis or bases for the claim of confidentiality and to the affidavits in support of the requested classification. Exhibit C is sometimes referred to hereinafter as the "Justification Table."

Also included herewith are Exhibits D and E. Exhibit D is the revised affidavit of

Dennis Brandt. Exhibit E consists of three letters from FPL customers supporting the request for confidential classification.

5. FPL seeks confidential protection for the information highlighted in the two Exhibits A. The statutory bases for FPL's assertion of confidentiality with regard to each document or portion thereof are set forth in Exhibit C under the column titled "FLORIDA STATUTE 366.093(3)." The letters (a) through (f) refer to subsections of section 366.093(3), as applicable. Support for FPL's Request for Confidential Classification of the referenced material is provided through the affidavit of Dennis Brandt, included herewith as Exhibit D.

6. FPL submits that the information highlighted in the two Exhibits A is proprietary confidential business information within the meaning of section 366.093(3). As Mr. Brandt's affidavit indicates, the highlighted information consists of customer-specific information for non-governmental customers. In particular, FPL has withheld the names of customers on the lists of information provided as attachments to the Report in order to avoid disclosing the specific rate and contract information associated with those customer accounts. FPL considers such information to be confidential proprietary business information of the customer within the meaning of Section 366.093(3)(e) and does not disclose such information to third parties unless required by law or unless the customer consents to the disclosure.

7. FPL's customers themselves consider the information to be confidential. As reflected in Mr. Brandt's affidavit, and referring to the customer letters included as Exhibit E, customers have indicated to FPL that the information in question relates to their competitive interests, the disclosure of which could cause them competitive harm. As Mr. Brandt states, although the potential harm from disclosure may vary from customer to customer, FPL has adopted a uniform policy of not disclosing customer-specific rate and contract information unless

required by law or upon consent of the customer. Customer confidence in the integrity of this policy is important from the standpoint of both the customer and FPL. As noted, customers consistently have indicated that they consider their rate and contract information to be confidential and commercially sensitive data that, if disclosed, would afford competitors an unfair advantage. Further, if customers lose faith in FPL's ability to preserve the confidentiality of customer-specific information, they may be more selective in the types of information they allow FPL to compile and retain. This may include electing not to participate in certain voluntary utility-sponsored programs such as research projects, customer focus groups, or experimental or special rate offerings. Such a result would impair FPL's ability to conduct its business and improve and expand its service to customers.

8. The Commission in the past has found customer-specific information to be proprietary confidential business information.¹

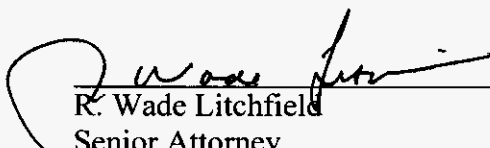
9. Pursuant to section 366.093, materials found to be proprietary confidential business information are entitled to confidential treatment and are exempt from the disclosure provisions of the public records law. Thus, once the Commission determines that the information in question is proprietary confidential 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.

¹ *In re: Petition for approval of proposed pilot/experimental Real Time Pricing Program and the associated rate schedule by Gulf Power Company*, Docket No. 941102-EI, Order No. PSC-98-0421-CFO-EI, 99 FPSC 3:310; *In re: Electric Service Quality (ESQ) Audit Request for Confidentiality (Audit Control No. 97-01-002)*, Docket No. 971668-EI, Order no. PSC-98-0620-CFO-EI, 98 FPSC 5:28; *In re: Request for confidential classification of portions of audit report regarding Commercial/Industrial Demand Side Management by Florida Power & Light Company*, Docket No. 961013-EI, Order No. PSC-96-1478-CFO-EI, 96 FPSC 12:184.

10. Upon a finding by the Commission that the material in the two Exhibits A for which FPL seeks confidential treatment is "proprietary confidential business information," pursuant to section 366.093(4) such materials 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.

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,



R. Wade Litchfield
Senior Attorney
700 Universe Boulevard
Juno Beach, FL 33408-0420
(561) 691-7101

Authorized House Counsel for
Florida Power & Light Company

REVISED EXHIBIT D

**AFFIDAVIT
OF DENNIS BRANDT**

BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

In the Matter of Florida Power & Light) DOCKET NO: 991698-EI
Company's Request for Confidential)
Classification in Connection With Its) FILED:
Report Under FAC 25-6.018)

STATE OF FLORIDA)
)
COUNTY OF DADE)
)
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 Director, Product and Support Services. I have personal knowledge of the matters stated in this affidavit.

2. With respect to each Exhibit C, I have reviewed the documents and information for which I am listed as Affiant and which are included in Exhibits A to FPL's First Amended Request for Confidential Classification. Such documents or materials that I have reviewed and which, in whole or in part, are asserted by FPL to be proprietary confidential business information, contain or constitute customer-specific account information with respect to non-governmental customers. FPL's customers have re-affirmed their view that specific rate and contract information is competitively sensitive information, the disclosure of which could cause them economic harm. For many of these customers, electric usage is an important part of their production or operating costs. Thus, the disclosure of rate or contract information, as well as consumption levels or patterns, could provide competitors with commercially sensitive information that would afford such competitors an unfair advantage. While it may be that the disclosure of such information may be more sensitive for some customers than for others, FPL has not sought to make a case-by-case determination as to the level of sensitivity or potential harm with respect to disclosing a particular customer's information; rather, in deference to its customers, as a matter of policy, FPL has not disclosed to third parties specific rate and contract information for non-governmental customers unless required by law or unless the customer consents to such disclosure. This policy is important from both a practical and theoretical standpoint. Customers want the assurance that their information is protected to the same extent as any other customer's. Also, practically speaking, it would be a difficult and perhaps impossible task to make a case-by-case determination as to what level of protection each customer's data may merit.

3. The information referred to in this affidavit should be maintained as confidential for a period of not less than eighteen months. In addition, these materials 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. Affiant says nothing further.



Dennis Brandt

SWORN TO AND SUBSCRIBED before me this 8 day of June, 2000, by Dennis Brandt, who is personally known to me or who has produced _____ (type of identification) as identification and who did take an oath.



Notary Public, State of Florida

My Commission Expires:

 **Bertila Estepinalu**
MY COMMISSION # **COM0372 80968**
January 14, 2000
BONDED THRU TROY INSURANCE, INC.

EXHIBIT E

[REDACTED]

April 19, 2000

[REDACTED]

Mr. Jody Underhill
Florida Power & Light Co.
9001 Ellis Rd
West Melbourne, FL 32904

RE: Letter of Confidentiality

Dear Mr. Underhill:

This letter is to state [REDACTED] position that information regarding our electric rates, electric consumption or tariffs is confidential. Due to the competitive nature of our business, we feel that public release of any information could cause [REDACTED] substantial competitive harm. We request FPL keep this information confidential and not release such information without prior written consent.

Please inform the State of Florida regarding our position on this issue and let us know immediately if you believe that public release of such information is to occur.

Sincerely,

[REDACTED]

/JD

[REDACTED]

[REDACTED]

April 19, 2000

Mr. Jody Underhill
Florida Power & Light Co.
9001 Ellis Rd
West Melbourne, FL 32904

Dear Mr. Underhill:

This letter is to re-confirm that [REDACTED] considers information regarding our electric rates and tariffs as confidential and accordingly they should never be disclosed to any third party without our express written approval. Due to the competitive nature of our business, we feel that having any information, regarding the rate we are on or any other cost factor, made public could be detrimental to our competitive position.

We at [REDACTED] also feel that this information should not be disclosed by any State of Florida agency without the same express prior written approval.

Sincerely,

[REDACTED]

[REDACTED]

[REDACTED]

April 14, 2000

Mr. Rick Chalker, C.E.M.
Florida Power & Light
6001 Village Boulevard
West Palm Beach, FL 33407-1998

Dear Mr. Chalker:

I would like to reconfirm Florida Power and Light's commitment to a policy that has existed since we became an FP&L customer. That policy is not to disclose our Tariff Rate or discuss our electric costs with any third party without our prior written approval. We also feel that compliance with this policy extends to any and all agencies, governmental and otherwise, with access to this information.

Utility rates comprise a major portion of our production cost; therefore, it is imperative that our competitors do not gain access to the [REDACTED] tariff information.

We appreciate the relationship we have developed over the years and are confident you will continue to honor this policy. If you wish to discuss this matter with me, please call [REDACTED]

Best regards,

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]