

ORIGINAL

STATE OF FLORIDA

COMMISSIONERS:
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RUDOLPH "RUDY" BRADLEY
LISA POLAK EDGAR



DIVISION OF THE COMMISSION CLERK &
ADMINISTRATIVE SERVICES
BLANCA S. BAYO
DIRECTOR
(850) 413-6770 (CLERK)
(850) 413-6330 (ADMIN)

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Public Service Commission

M-E-M-O-R-A-N-D-U-M

DATE: October 6, 2005

TO: OFFICE OF THE GENERAL COUNSEL
DIVISION OF COMPETITIVE MARKETS & ENFORCEMENT
XX DIVISION OF ECONOMIC REGULATION
DIVISION OF REGULATORY COMPLIANCE
& CONSUMER ASSISTANCE

FROM: DIVISION OF THE COMMISSION CLERK AND ADMINISTRATIVE SERVICES

RE: CONFIDENTIALITY OF CERTAIN INFORMATION

CMP _____

COM _____

CTR _____

ECR _____

GCL _____

OPC _____

RCA _____

SCR _____

SGA _____

SEC 1

OTH Lickard

DOCUMENT NO(s): 09484-05

DESCRIPTION: FPL (Bryan) - (CONFIDENTIAL) Certain documents responsive to staff's 5th set of interrogatories (No. 51).

SOURCE: Florida Power & Light Company

DOCKET NO(S): 050001-EI

The above material was received with a filing of a request for confidential classification. Please prepare a recommendation for the attorney assigned to the case by completing the section below and forwarding a copy of this memorandum, together with a brief memorandum supporting your recommendation, to the attorney. Copies of your recommendation should also be provided to the Division of the Commission Clerk and Administrative Services, Bureau of Records and Hearing Services, and to the Office of General Counsel.

DOCUMENT NUMBER-DATE

10072 OCT 18 03

FPSC-COMMISSION CLERK

Please read each of the following and check if applicable.

- ☒ The document(s) is (are), in fact, what the utility asserts it (them) to be.
- ☒ The utility has provided enough details to perform a reasoned analysis of its request.
- ☒ The material has been received incident to an inquiry.
- ☒ The material is confidential business information because it includes:
- ☐ (a) Trade secrets;
 - ☐ (b) Internal auditing controls and reports of internal auditors;
 - ☐ (c) Security measures, systems, or procedures;
 - ☒ (d) Information concerning bids or other contractual data, the disclosure of which would impair the efforts of the company to contract for services on favorable terms;
 - ☒ (e) Employee personnel information unrelated to compensation, duties, qualifications, or responsibilities;
 - ☐ (f) Tax returns or tax-related information;
 - ☐ (g) Information relating to competitive interests, the disclosure of which would impair the competitive business of the provider of information.
- ☒ The material appears to be confidential in nature and harm to the company or its ratepayers will result from public disclosure.
- ☐ The material appears not to be confidential in nature.
- ☐ The material is a periodic or recurring filing and each filing contains confidential information.

Response prepared by:

Bernard Windham

Date: 10-14-05

cc: ☒ GCL ☐ FLL
☐ CMP ☒ CCA
☐ ECR ☐ RCA
☐ MMS

PSC/CCA 15 (Rev 05/04)



FPL

Writer's Direct Dial:
(561) 304-5134
(561) 691-7305 (Fax)
Patrick.Bryan@fpl.com (Email)

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

ORIGINAL

RECEIVED-FPSC

05 OCT -5 AM 10:56

COMMISSION
CLERK

REGULATION

05 OCT -6 PM 2:43

October 4, 2005

VIA OVERNIGHT DELIVERY

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

Re: Florida Power & Light Company's Request for Confidential Classification
In re: Fuel and purchased power cost recovery clause with generating
Performance incentive factor - Docket No. 050001-EI

Dear Ms. Bayó:

Enclosed for filing is the original and two (2) copies of Florida Power & Light Company's (FPL's) Request for Confidential Classification. FPL seeks confidential treatment for certain documents responsive to discovery requests of the Staff ("Staff") of the Florida Public Service Commission in connection with the above-referenced docket. The original includes Exhibits A, B, C and D. The two copies only include Exhibit C.

Exhibit A consists of copies of all documents for which FPL seeks confidential treatment, whether in whole or in part. All information in Exhibit A that FPL asserts is entitled to confidential treatment has been highlighted. Exhibit A is submitted for filing in a separate, sealed folder marked "EXHIBIT A - CONFIDENTIAL". Exhibit B is an edited version of Exhibit A, in which the information FPL asserts is confidential has been redacted. Exhibit C consists of FPL's justification for its Request for Confidential Classification. Exhibit D contains an affidavit in support of FPL's Request for Confidential Classification. Also included in this filing is a computer diskette containing FPL's Request for Confidential Classification and Exhibit C in Word format.

In accord with Rule 25-22.006(3)(d), FPL requests confidential treatment of the information in Exhibit A pending disposition of FPL's Request for Confidential Classification. Please do not hesitate to contact me should you or your Staff have any questions regarding this filing.

Sincerely,

Patrick M. Bryan
Patrick M. Bryan

CMP _____
COM _____
CTR _____
ECR ☒ _____
GCL ☒ _____
OPC _____
RCA _____
SCR _____
SGA _____
SEC ☒ _____
JTH ☒ _____

PMB/bjw
Enclosures

cc: Service List

RECEIVED & FILED

82 6 PM 5-100 50

DOCUMENT NUMBER: D/

09483 OCT-5

**BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION**

**In re: Fuel and purchased power)
cost recovery clause with generating)
performance incentive factor.)**
_____)

Docket No. 050001-EI

Dated: October 4, 2005

**FLORIDA POWER & LIGHT COMPANY'S
REQUEST FOR CONFIDENTIAL CLASSIFICATION**

NOW, BEFORE THIS COMMISSION, through undersigned counsel, comes Florida Power & Light Company ("FPL") and, pursuant to Rule 25-22.006, Florida Administrative Code, and Section 366.093 of the Florida Statutes, hereby requests confidential classification of certain documents responsive to discovery requests of the Staff ("Staff") of the Florida Public Service Commission served on FPL in this docket. In support of its request, FPL states as follows:

1. The confidential information is contained in answers responsive to Staff's Fifth Set of Interrogatories, No. 51.
2. The following exhibits are included herewith and made a part hereof:
 - (a) Exhibit A consists of all documents for which FPL seeks confidential treatment, whether in whole or in part. All information in Exhibit A that FPL asserts is entitled to confidential treatment has been highlighted. Exhibit A is submitted separately in a sealed folder marked "CONFIDENTIAL."
 - (b) Exhibit B consists of edited versions of all documents for which FPL seeks confidential treatment. All information for which FPL requests confidential treatment has been redacted in Exhibit B.

DOCUMENT NUMBER-DATE

09483 OCT-5 05
Page 1 of 5

FPSC-COMMISSION CLERK

(c) 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."

(d) Exhibit D is the affidavit of Gerard J. Yupp in support of this request.

3. FPL submits that the highlighted information in Exhibit A is proprietary confidential business information within the meaning of section 366.093(3), Florida Statutes. To the best of FPL's knowledge, the highlighted information has not been publicly disclosed. Pursuant to section 366.093, Florida Statutes, such information is entitled to confidential treatment and is 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.


4. As the affidavit indicates, the confidential information consists of information relating to Coal Supply and transportation contract information. If publicly disclosed, this information would harm the competitive interests of FPL and would impair FPL's ability to contract on favorable terms. This information is protected by Section 366.093(3)(d) and (e), Florida Statutes.

5. Upon a finding by the Commission that the material in Exhibit A for which FPL seeks confidential treatment is proprietary confidential business information within the meaning of section 366.093(3), 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,



Patrick M. Bryan, Esq.

Fla. Bar No. 0457523

Attorneys for Florida Power & Light Company

700 Universe Boulevard

Juno Beach, Florida 33408-0420

Tel. (561) 304-5134

Fax: (561) 691-7135

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by overnight delivery (*) or U.S. Mail this 4th day of October, 2005 to the following:

Adrienne E. Vining, Esquire(*)
Division of Legal Services
Florida Public Service Commission
2540 Shumard Oak Blvd.
Tallahassee, Florida 32399-0850

Charles J. Beck, Deputy Public Counsel
Patricia A. Christensen, Esquire
Office of Public Counsel
c/o The Florida Legislature
111 West Madison Street, Room 812
Tallahassee, Florida 32399

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James D. Beasley, Esquire
Ausley & McMullen
Attorneys for Tampa Electric
P.O. Box 391
Tallahassee, Florida 32302

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Progress Energy Florida, Inc.
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Davidson, et al.
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Jeffrey A. Stone, Esquire
Russell A. Badders, Esquire
Beggs & Lane
Attorneys for Gulf Power
P.O. Box 12950
Pensacola, Florida 32576-2950

Jon C. Moyle, Jr. Esquire
Moyle, Flannigan, Katz,
Raymond & Sheehan, P.A.
The Perkins House
118 North Gadsden Street
Tallahassee, Florida 32301

Robert Scheffel Wright, Esquire
John Thomas LaVia, III, Esquire
Landers & Parsons, P.A.
310 West College Avenue
Tallahassee, Florida 32301

Gary V. Perko, Esquire
Hopping Green & Sams
P. O. Box 6525
Tallahassee, FL 32314


By: 
Patrick M. Bryan

EXHIBIT C

EXHIBIT C

COMPANY: Florida Power & Light Company
TITLE: List of Confidential Documents
DOCKET NO.: 050001-EI
DOCKET TITLE: Levelized Fuel Cost Recovery and Capacity Cost Recovery
SUBJECT: Responses to Staff's Fifth Set of Interrogatories
DATE: October 4, 2005

Discovery	Description	No. of Pages	Conf Y/N	Line No.	Florida Statute 366.093(3) Subsection	Affiant
Staff's 5 th Set of Interrogatories	Nos. 1-50		No	N/A	N/A	N/A
Staff's 5 th Set of Interrogatories	No. 51 Pages 1 - 2	2	Y	entire response	(d), (e)	G. Yupp

EXHIBIT D

EXHIBIT D

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Fuel and Purchased Power) DOCKET NO. 050001-EI
Cost Recovery Clause with Generating)
Performance Incentive Factor) DATED: October 3, 2005

STATE OF FLORIDA)
) AFFIDAVIT OF GERARD YUPP
PALM BEACH COUNTY)

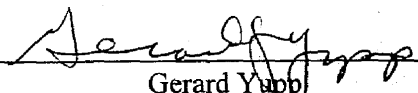
BEFORE ME, the undersigned authority, personally appeared Gerard Yupp who, being first duly sworn, deposes and says:

1. My name is Gerard Yupp. I am currently employed by Florida Power & Light Company ("FPL") as Manager of Regulated Wholesale Power Trading in the Energy Marketing and Trading Division. I have personal knowledge of the matters stated in this affidavit.

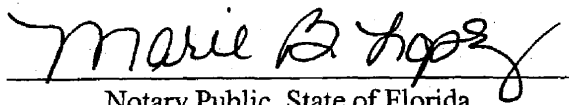
2. I have reviewed the documents and information for which I am listed as Affiant in Exhibit C and which are included in Exhibit A to FPL's Request for Confidential Classification of Certain Information Responsive to Staff's Fifth Set of Interrogatories (No. 51). The document that I have reviewed and that FPL asserts in Exhibit C to be proprietary confidential business information, contain or constitute coal supply and transportation contract information. Disclosure of this information would impair the competitive interests of FPL, as well as FPL's ability to contract on favorable terms. To the best of my knowledge, FPL has maintained the confidentiality of these documents and materials.

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. Affiant says nothing further.


Gerard Yupp

SWORN TO AND SUBSCRIBED before me this 3rd day of October 2005, by Gerard Yupp, who is personally known to me or who has produced personally known (type of identification) as identification and who did take an oath.


Notary Public, State of Florida

My Commission Expires: 7/17/08

