

State of Florida



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

DATE: August 12, 2008

TO: Rosanne Gervasi, Senior Attorney, Office of the General Counsel

FROM: William F. Coston, Operations Review Specialist, Division of Regulatory Compliance *WFC*

RE: 080438-EI - Request for confidential classification of portions of staff's workpapers on the *Review of Fuel Procurement Hedging Practices of Florida's Investor-Owned Electric Utilities* by Florida Power and Light Company.
Document: 05705-08 & 08706-08
S M/M

Attached is a July 1, 2008 request (document 05705-08) from FPL counsel, John Butler. This document includes the company's request for Specified Confidential Classification on portions of staff's workpapers on the *Review of Fuel Procurement Hedging Practices of Florida's Investor-Owned Electric Utilities*. The company cites §366.0963(3)(d), F.S.—which address contractual data—as the basis for the request.

Staff has reviewed this request and believes that the specified information is covered by §366.0963(3)(d), F.S. Staff recommends the approval of FPL's Request for Confidential Classification on portions of staff's *Review of Fuel Procurement Hedging Practices of Florida's Investor-Owned Electric Utilities*.

- COM _____
- ECR _____
- GCL _____
- OPC _____
- RCP _____
- SSC _____
- SGA _____
- ADM _____
- CLK *Marguerite*

DOCUMENT NUMBER-DATE

07127 AUG 12 8

FPSC-COMMISSION CLERK



John T. Butler
Senior Attorney
Florida Power & Light Company
700 Universe Boulevard
Juno Beach, FL 33408-0420
(561) 304-5639
(561) 691-7135 (Facsimile)
E-mail: john_butler@fpl.com

July 1, 2008

-VIA HAND DELIVERY -

Ms. Ann Cole
Commission Clerk
Florida Public Service Commission
2540 Shumard Oak Blvd.
Tallahassee, FL 32399-0850

RECEIVED-FPSC
08 JUL - 1 PM 4: 11
COMMISSION
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Re: **Docket No. 080000**

080438

Dear Ms. Cole:

I am enclosing for filing in the above docket the original and seven (7) copies of Florida Power & Light Company's Request for Confidential Classification of Certain Workpapers Prepared In Connection With "Review of Fuel Procurement Hedging Practices of Florida's Investor-Owned Utilities," together with a diskette containing the electronic version of same. The enclosed diskette is HD density, the operating system is Windows XP, and the word processing software is Word. Pursuant to Rule 25-22.006, F.A.C., I am also enclosing one highlighted and two redacted copies of the confidential documents that are the subject of this request.

If there are any questions regarding this transmittal, please contact me at 561-304-5639.

Sincerely,

for John T. Butler

1 + Diskette

Enclosure

cc: Counsel for parties of record (w/out enclosures)

DOCUMENT NUMBER-DATE

05705 JUL-1 8

FPSC-COMMISSION CLERK

DOCUMENT NUMBER-DATE

07127 AUG 12 8

FPSC-COMMISSION CLERK

an FPL Group company

**BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION**

In re: Fuel and Purchased Power)
Cost Recovery Clause and Generating)
Performance Incentive Factor)

DOCKET NO. 080000

FILED: July 1, 2008

**REQUEST FOR CONFIDENTIAL CLASSIFICATION OF CERTAIN WORKPAPERS
PREPARED IN CONNECTION WITH "REVIEW OF FUEL PROCUREMENT
HEDGING PRACTICES OF FLORIDA'S INVESTOR-OWNED UTILITIES"**

Pursuant to Section 366.093, Florida Statutes, and Rule 25-22.006(3), Florida Administrative Code, Florida Power & Light Company ("FPL") requests confidential classification of certain information in work papers prepared by the Florida Public Service Commission ("FPSC" or "Commission") staff ("Staff") in connection its "Review of Fuel Procurement Hedging Practices of Florida's Investor-Owned Electric Utilities," No. PA-07-11-007 (the "Hedging Review Workpapers") in this docket. In support of its Request, FPL states as follows:

1. Staff has provided FPL access to the Hedging Review Workpapers and requested that FPL file a formal request for confidential classification with respect. This Request is intended to request confidential classification of the confidential portions of the Hedging Review Workpapers consistent with Rule 25-22.006(3)(a).

2. The following exhibits are included with and made a part of this request:

a. Exhibit A consists of a copy of the Hedging Review Workpapers, on which all information 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 an edited version of Exhibit A on which all information FPL asserts is entitled to confidential treatment has been redacted.

c. Exhibit C is a table containing a line-by-line and page-by-page identification of the information for which confidential classification 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.

d. Exhibit D is comprised of the affidavit of Gerard J. Yupp.

3. FPL seeks confidential protection for the information highlighted in Exhibit A. The highlighted information is proprietary confidential business information within the meaning of Section 366.093(3). The information is intended to be, and has been, treated by FPL as confidential.

4. Pursuant to Section 366.093, the information highlighted in Exhibit A 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.

5. 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 in that column refer to the subsection(s) of Section 366.093(3) that provide justification for FPL's request. Further support for FPL's request for confidential classification of the referenced information is provided through the affidavit that is included as Exhibit D to this Request.

6. Upon a finding by the Commission that the information highlighted in Exhibit A, and referenced in Exhibit C, is proprietary confidential business information, the information 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. See § 366.093(4).

WHEREFORE, for the foregoing reasons, FPL respectfully requests that this Request be granted.

Respectfully submitted,

R. Wade Litchfield, Esq.
Associate General Counsel
John T. Butler, Esq.
Senior Attorney
Law Department
Florida Power & Light Company
700 Universe Blvd.
Juno Beach, Florida 33408-0420
Telephone: 561-5639
Fax: 561-691-7135

By:



John T. Butler
Fla. Bar No. 283479

CERTIFICATE OF SERVICE

Docket No. 080001-EI

I HEREBY CERTIFY that a true and correct copy of the foregoing Request for Confidential Classification of Certain Workpapers Prepared in Connection with "Review of Fuel Procurement Hedging Practices of Florida's Investor-Owned Electric Utilities" (*) has been furnished by hand delivery (**) or U.S. Mail on this 1st day of July 2008, to the following:

Lisa Bennett, Esq.* *
Division of Legal Services
Florida Public Service Commission
2540 Shamed Oak Blvd.
Tallahassee, Florida 32399-0850

J. R. Kelly, Esq.
Steve Burgess, Esq.
Office of Public Counsel
c/o The Florida Legislature
111 West Madison Streets, Room 812
Tallahassee, Florida 32399

Lee L. Willis, Esq.
James D. Beasley, Esq.
Causley & McMullen
Attorneys for Tampa Electric
P.O. Box 391
Tallahassee, Florida 32302

John T. Burnett, Esq.
Progress Energy Service Company, LLC
P.O. Box 14042
St. Petersburg, Florida 33733-4042


John W. Charter, Jr., Esq.
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400 North Tampa Street, Suite 2450
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Norman H. Horton, Jr., Esq.
Floyd R. Self, Esq.
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P.O. Box 1876
Tallahassee, Florida 32302-1876

Jeffrey A. Stone, Esq.
Russell A. Bidders, Esq.
Begs & Lane
Attorneys for Gulf Power
P.O. Box 12950
Pensacola, Florida 32576-2950

Michael B. Toomey, Esq.
Attorney for AARP
Post Office Box 5256
Tallahassee, Florida 32314-5256

James W. Brew
Brickfield, Burchett, Ritz & Stone, P.C.
1025 Thomas Jefferson Street, NW, Eighth, West Tower
Washington, DC 20007-5201

By 
John T. Butler

* The exhibits to this Request are not included with the service copies, but copies of Exhibits B, C and D are available upon request.

COMMISSIONERS:
MATTHEW M. CARTER II, CHAIRMAN
LISA POLAK EDGAR
KATRINA J. MCMURRIAN
NANCY ARGENZIANO
NATHAN A. SKOP

STATE OF FLORIDA



OFFICE OF COMMISSION CLERK
ANN COLE
COMMISSION CLERK
(850) 413-6770

Public Service Commission

ACKNOWLEDGEMENT

DATE: July 1, 2008

TO: John T. Butler, Esquire/FPL

FROM: Marguerite H. McLean, Office of Commission Clerk

RE: Acknowledgement of Receipt of Confidential Filing

This will acknowledge receipt of a **CONFIDENTIAL DOCUMENT** filed in Docket Number 080000-OT (DN 05706-08) or, if filed in an undocketed matter, concerning hedging review workpapers (No. PA-07-11-007), and filed on behalf of FPL. The document will be maintained in locked storage.

If you have any questions regarding this document, please contact Marguerite McLean, Deputy Clerk, at (850) 413-6770.

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PSC Website: <http://www.floridapsc.com>

Internet E-mail: contact@psc.state.fl.us

080438

Exhibit B

undkt'd

REDACTED DOCUMENTS

- CMP 1
- COM _____
- CTR _____
- ECR _____
- GCL _____
- OPC _____
- FOA _____
- FOR _____
- FOA _____
- SEC _____
- OTD _____

DOCUMENT NUMBER-DATE
05707 JUL-18
FPSC-COMMISSION CLERK

Exhibit C

undkt/d

Justification Table

CMP 1
COM _____
COR _____
CPB _____
CPL 1
CPC _____
CPA _____
CPI _____

*1 cont
records*

DOCUMENT NUMBER-DATE

05708 JUL-18

FPSC-COMMISSION CLERK

EXHIBIT C

COMPANY: Florida Power & Light Company
TITLE: List of Confidential Work Papers
AUDIT PURPOSE: Electric IOU Hedging Procurement Review

Description	No. of Pages	Conf. Y/N	Line No./Col. No.	Florida Statute 366.093(3) Subsection	Affiant
Interview	1	N			
DR - 01	1	N			
DR - 02	1	N			
DR - 03	1	N			
PPS 8/30/07	3	Y	Pgs. 1-3, ALL	(d)	G. Yupp
PPS 6/27/07	3	Y	Pgs. 1-3, ALL	(d)	G. Yupp
PPS 5/4/07	2	Y	Pgs. 1-2, ALL	(d)	G. Yupp
PPS 4/13/07	2	Y	Pgs. 1-2, ALL	(d)	G. Yupp
PPS 2001-2003	24	N	Cover Page		
		Y	Pgs. 1-23, ALL	(d)	G. Yupp
PPS 2004	21	N	Cover Page		
		Y	Pgs. 1-20, ALL	(d)	G. Yupp
PPS 2005	26	N	Cover Page		
		Y	Pgs. 1-25, ALL	(d)	G. Yupp
PPS 2006	43	N	Cover Page		
		Y	Pgs. 1-42, ALL	(d)	G. Yupp
PPS 2007	6	N	Cover Page		
		Y	Pgs. 1-5, ALL	(d)	G. Yupp
PPS 10/31/06	15	Y	Pgs. 1-15, ALL	(d)	G. Yupp
BRR Work Plan	12	N	Pg. 1,		
		Y	Pg. 2, Cols. D, E	(d)	G. Yupp
		N	Pgs. 3-12		
BOP Analysis	6	N	Pg. 1A,		
		Y	Pg. 2A, Ln. 6	(d)	G. Yupp
		N	Pgs. 3A-6A		
BOP Analysis	10	N	Pg. 1		
		Y	Pg. 2, Lns 16-18	(d)	G. Yupp
		Y	Pg. 3, Lns. 3-7, 19-20		
		Y	Pg. 4, Lns. 9-14, 18-23		
		N	Pg. 5		
		Y	Pg. 6, Lns. 17-19		
		Y	Pg. 7, Lns. 15-19		
		Y	Pg.8, Ln. 30		
		Y	Pg. 9, Lns. 1, 3-4, 17-19		
		N	Pg. 10		
BOP Analysis	2	N	Pgs. 1-2		
BOP Analysis	11	N	Pgs. 1B-2B		
		Y	Pg. 3B, Lns. 14A-15, 32-33, 37	(d)	G. Yupp
		Y	Pg. 4B, Lns. 1-4, 47		
		Y	Pg. 5B, Ln. 1-2		
		N	Pgs. 6B-7B		
		Y	Pg. 8B, Graph		
		Y	Pg. 9B, Graph		
		N	Pg. 10B, Graph		
		Y	Pg. 11B, Graph		

Exhibit D

AFFIDAVIT

EXHIBIT D

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

Undocketed Filings for 2008

DOCKET NO. 080000

STATE OF FLORIDA

PALM BEACH COUNTY

AFFIDAVIT OF GERARD J. YUPP

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

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

2. With respect to Exhibit C, I have reviewed the documents which are included in Exhibit A to FPL's Request for Confidential Classification of Information Obtained in Connection with the Electric IOU Hedging Procurement Review. The documents or materials that I have reviewed and which are asserted by FPL to be proprietary confidential business information contain or constitute contractual data such as pricing and other terms, and vendor and supplier rates, the disclosure of which would impair the efforts of FPL to contract for gas and oil procurement on favorable terms for the benefit of its customers and would impair the competitive interests of FPL and its vendors. Certain of the information would also place FPL at a disadvantage when coupled with other information that is publicly available. 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 not less than 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 J. Yupp (signature)

SWORN TO AND SUBSCRIBED before me this 30th day of June 2008, by Gerard J. Yupp, who is personally known to me or who has produced personally known (type of identification) as identification and who did take an oath.

Monica M. Schaefer (signature)
Notary Public, State of Florida

My Commission Expires: 5/1/2010

