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Managing Attorney  
Florida Power & Light Company  
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(561) 691-7135 (Facsimile)

March 26, 2009

**-VIA OVERNIGHT DELIVERY -**

Ms. Ann Cole, Director  
Division of the Commission Clerk and Administrative Services  
Florida Public Service Commission  
2540 Shumard Oak Blvd.  
Tallahassee, FL 32399-0850

RECEIVED-FPSC  
09 MAR 27 PM 1:12  
COMMISSION  
CLERK

**Re: Docket No. 090001-EI**

Dear Ms. Cole:

I am enclosing for filing in the above docket the original and seven (7) copies of Florida Power & Light Company's ("FPL's") Request for Confidential Classification of Certain Information Responsive to Staff's Third Request for Production of Documents, together with a CD containing the electronic version of same.

Pursuant to Rule 25-22.006, F.A.C., I am enclosing one highlighted and two redacted copies of the confidential documents that are the subject of the confidentiality request.

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

Sincerely,

*Damaris Rodriguez for*  
John T. Butler

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**ECR** \_\_\_\_\_  
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Enclosure  
cc: Counsel for Parties of Record (w/encl.)

DOCUMENT NUMBER-DATE

02733 MAR 27 09

FPSC-COMMISSION CLERK

**BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

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

Docket No. 090001-EI

Filed: March 27, 2009

**REQUEST FOR CONFIDENTIAL CLASSIFICATION OF  
INFORMATION PROVIDED IN RESPONSE TO STAFF'S  
THIRD REQUEST FOR THE PRODUCTION OF DOCUMENTS**

Pursuant to Section 366.093, Florida Statutes, and Rule 25-22.006, Florida Administrative Code, Florida Power & Light Company ("FPL") requests confidential classification of certain information provided by FPL in response to Request Nos. 3 and 4 in Staff's Third Request for Documents which was served on February 27, 2009 (the "Confidential Discovery Responses"). In support of its Request, FPL states as follows:

1. FPL served its documents responsive to Staff's Third Request for Production of Documents on Thursday, March 26, 2009, for overnight delivery to Staff on March 27, 2009. This request is being filed contemporaneously with the delivery of the documents to Staff, in order to request confidential classification of the Confidential Discovery Responses consistent with Rule 25-22.006, Florida Administrative Code.

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

a. Composite Exhibit A consists of a copy of the Confidential Discovery Responses on which all information that FPL asserts is entitled to confidential treatment has been highlighted.

b. Composite Exhibit B consists of an edited version of Exhibit A, on which all information in the Confidential Discovery Responses that FPL asserts is entitled to confidential treatment has been redacted.

DOCUMENT NUMBER-DATE

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FPSC-COMMISSION CLERK

c. Exhibit C is a table containing an identification of the information highlighted in Exhibit A, together with references to the specific statutory bases for the claim of confidentiality and to the affidavit in support of the requested classification.

d. Exhibit D consists of the affidavit of Kenneth L. Brockway, Manager of Coal Origination in the Energy Marketing and Trading Division.

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. This information is intended to be and is treated by FPL as private, and to the best of FPL's knowledge it 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 of Mr. Brockway indicates, the highlighted information is proprietary confidential business information within the meaning of Section 366.093(3) because it consists of certain information concerning bids or other contractual data of FPL, the disclosure of which would impair FPL's ability to contract for coal, coal-related services, and other services on favorable terms. This information is protected by Section 366.093(3)(d). Additionally, the information provided relates to the competitive interests of FPL and the competitive interests of certain vendors from whom FPL purchases or has considered purchasing coal and coal related services. Such information is protected by Section 366.093(3)(e).

5. Upon a finding by the Commission that the information highlighted in Exhibit A is proprietary confidential business information within the meaning of Section 366.093(3), 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**, FPL respectfully requests confidential classification of the Confidential Discovery Responses as described herein.

Respectfully submitted,

R. Wade Litchfield, Esq.  
Vice President and Chief Regulatory Counsel  
John T. Butler, Esq.  
Managing Attorney  
Florida Power & Light Company  
700 Universe Boulevard  
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Telephone: (561) 304-5639  
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BY: *Jamario Rodriguez for*  
John T. Butler  
Fla. Bar No. 283479

**CERTIFICATE OF SERVICE**  
**Docket No. 090001-EI**

**I HEREBY CERTIFY** that a true and correct copy of the foregoing Request for Confidential Classification (\*) has been furnished by overnight delivery (\*\*) or U.S Mail on the 26<sup>th</sup> day of March, 2009, to the following:

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

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Charles J. Rehwinkel, Esq.  
Office of Public Counsel  
c/o The Florida Legislature  
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Tallahassee, Florida 32399

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By: *Damarcus Rodriguez for*  
John T. Butler  
Fla. Bar No. 28347

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

STATE OF FLORIDA

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



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

# Public Service Commission

## ACKNOWLEDGEMENT

DATE: March 27, 2009

TO: John T. Butler, Florida Power & Light Company

FROM: Ruth Nettles, Office of Commission Clerk

RE: Acknowledgement of Receipt of Confidential Filing

This will acknowledge receipt of a **CONFIDENTIAL DOCUMENT** filed in Docket Number 090001 or, if filed in an undocketed matter, concerning certain information provided in response to Request Nos. 3 and 4 in staff's 3<sup>rd</sup> request for documents served on 2/27/09, and filed on behalf of Florida Power & Light Company. The document will be maintained in locked storage.

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

DOCUMENT NUMBER - DATE  
02734 MAR 27 09  
FPSC - COMMISSION CLERK

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