



Kenneth M. Rubin
Senior Attorney
Florida Power & Light Company
700 Universe Boulevard
Juno Beach, FL 33408-0420
(561) 691-2512
(561) 691-7135 (Facsimile)
E-mail: ken.rubin@fpl.com

May 26, 2009

RECEIVED-PPSC
09 MAY 26 PM 4: 07
COMMISSION
CLERK

-VIA HAND DELIVERY -

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

Re: Florida Power & Light Company's Request for Confidential Classification re: Thomas R. Koch Rebuttal Testimony Exhibit TRK-10 in Docket Nos. 070231-EI & 080244-EI

Dear Ms. Cole:

On May 15, 2009, Florida Power & Light Company ("FPL") filed a Notice of Intent to Seek Confidential Classification of certain information contained in Exhibit TRK-10 to the pre-filed rebuttal testimony of Thomas R. Koch served May 15, 2009. This Notice is identified as document no. 04763-09 in the Document Detail file for the above docket.

I am enclosing for filing in the above consolidated dockets FPL's Request for Confidential Classification of Exhibit TRK-10.

Exhibit A consists of copies of certain document provided in connection with the above-referenced Exhibit TRK-10 on which all information that FPL asserts is entitled to confidential treatment has been highlighted. 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 is a copy of Thomas R. Koch's Affidavit in support of FPL's Request for Confidential Classification. The original affidavit will be filed under separate cover letter. Also included in this filing is a computer CD containing FPL's Request for Confidential Classification and Exhibit C in Word.

COV _____
ECI _____
CCJ _____ 2
CP _____
BCJ _____
BSC _____
SGA _____
ABM _____
CLM _____ 1

Ms. Ann Cole
Page 2

In accordance 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.

If there are any questions regarding this transmittal, please contact me at 561-691-2512.

Sincerely,


for Kenneth M. Rubin

Enclosures

cc: Counsel for parties of record (w/all enclosures except Exh. A)

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for approval of 2007)
revisions to underground residential and) Docket No. 070231-EI
commercial distribution tariff,)
by Florida Power & Light Company.)
_____)

In re: Petition for Approval of Underground) Docket No. 080244-EI
Conversion Tariff Revisions.) Filed: May 26, 2009
_____)

**REQUEST FOR CONFIDENTIAL CLASSIFICATION (EXHIBIT TRK-10 TO THE
PREFILED REBUTTAL TESTIMONY OF THOMAS R. KOCH)**

Pursuant to Section 366.093, Florida Statutes, and Rule 25-22.006, Florida Administrative Code, Florida Power & Light Company (“FPL”) requests confidential classification of Exhibit TRK-10 to the prefiled rebuttal testimony of Thomas R. Koch filed May 15, 2009 (“Exhibit TRK-10”) in Docket No. 080244-EI consolidated with Docket No. 070231-EI. In support of its Request, FPL states as follows:

1. FPL filed the prefiled rebuttal testimony of Thomas R. Koch including Exhibit TRK-10 on May 15, 2009 with an accompanying notice of intent to seek confidential classification of Exhibit TRK-10. This Request is intended to request confidential classification of Exhibit TRK-10, consistent with Rule 25-22.006, Florida Administrative Code.

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

a. Exhibit A is a copy of Exhibit TRK-10 on which all information that FPL asserts is entitled to confidential treatment has been highlighted.

b. Exhibit B is a copy of Exhibit TRK-10 on which the confidential information has been redacted.

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

d. Exhibit D is a copy of the affidavit of Thomas R. Koch.

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), Florida Statutes. The information is intended to be, and has been, treated by FPL as confidential.

4. Pursuant the 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. As attested in Exhibit D, the information contained in Exhibit TRK-10 relates to FPL's historical litigation costs and expenses associated with underground and overhead facilities. FPL considers this information to be proprietary confidential business information because its disclosure would provide litigation adversaries and potential adversaries with inappropriate insight into the nature of FPL's damages and litigation experience, which would impair FPL's competitive business to the disadvantage of both FPL and its customers. This information is protected by section 366.093(3)(e), Florida Statutes.

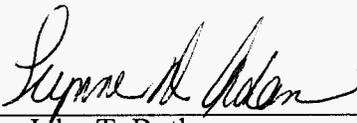
6. Upon a finding by the Commission that the information highlighted in Exhibit A and referenced in Exhibit C is proprietary confidential business information within the meaning of section 366.093(3), Florida Statutes, the information should not be declassified for a period of

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), Florida Statutes.

WHEREFORE, FPL respectfully requests that its Request for Confidential Classification be granted.

Respectfully submitted,

John T. Butler, Esquire
Managing Attorney
Florida Power & Light Company
700 Universe Boulevard
Juno Beach, FL 33408-0420
Telephone: (561) 304-5639
Facsimile: (561) 691-7135

By: 
John T. Butler
Fla. Bar No. 283479

CERTIFICATE OF SERVICE
Docket Nos. 080244-EI and 070231-EI

I **HEREBY CERTIFY** that a true and correct copy of the foregoing was served by electronic delivery on the 26th day of May, 2009, to the following:

Ralph Jaeger
Office of the General Counsel
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850
rjaeger@psc.state.fl.us
esayler@psc.state.fl.us

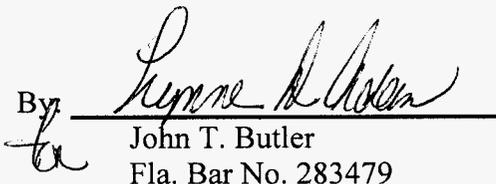
Robert Scheffel Wright
Jay T. LaVia, III
Young van Assenderp, P.A.
225 South Adams Street
Suite 200
Tallahassee, Florida 32301
Email: swright@yvlaw.net
jlavia@yvlaw.net

Brian P. Armstrong, Esq.
David G. Tucker
Nabors, Giblin & Nickerson, P.A.
1500 Mahan Drive
Suite 200
Tallahassee, Florida 32308
Telephone: (850) 224-4070
Facsimile: (850) 224-4073
dtucker@ngnlaw.com
barmstrong@ngnlaw.com

Scott E. Simpson, Esq.
Korey, Sweet, McKinnon, Simpson
and Vukelja
Granada Oaks Professional Building
595 West Granada Boulevard, Suite A
Ormond Beach, FL 32174-9448
Telephone: (386) 677-3431
Facsimile: (386) 673-0748
simpson66@bellsouth.net

MUUC/City of Coconut Creek
Thomas G. Bradford, Deputy Town Mgr
c/o Town of Palm Beach, Florida
360 South County Road
Palm Beach, FL 33480
Telephone: (561) 838-5410
Facsimile: (561) 838-5411
Tbradford@TownofPalmBeach.com

City of South Daytona
Joseph W. Yarbrough
P.O. Box 214960
South Daytona, FL 32121
Telephone: (386) 322-3010
Facsimile: (386) 322-3008
jyarbrough@southdaytona.org

By 
John T. Butler
Fla. Bar No. 283479

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: May 26, 2009

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 **080244-EI/070231-EI [DN 05212-09]** or, if filed in an undocketed matter, concerning **certain information contained in Exh TRK-10 to prefiled rebuttal testimony of Thomas R. Koch, 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 McLean, Deputy Clerk, at (850) 413-6770.