

**BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

In re: Fuel and Purchased Power Cost )  
Recovery Clause )  
\_\_\_\_\_)

Docket No. 030001-EI  
Filed: September 2, 2003

**MOTION FOR PROTECTIVE ORDER**

COMES NOW, Florida Public Utilities Company ("FPUC" or "the Company") by and through undersigned counsel and pursuant to section 366.093, Florida Statutes and Rule 25-22.006(6), Florida Administrative Code and requests the Commission to enter a protective order and as a basis would state:

1. One July 29, 2003, Staff served its First Request for Production of Documents on the Company requesting, among other items.

. . . each current contract for wholesale capacity, energy, or both that [FPUC] has entered with any utility or non-utility generator.

2. FPUC considers and treats documents such as those requested by Staff as proprietary and confidential. These contracts contain information, the disclosure of which would impair the efforts of the Company to contract for goods or services on favorable terms. Disclosure of the contract would harm the Company and its customers and provide information of use to competitive providers.

3. The documents requested contain information relative to services, rates and conditions for the purchase of electric energy which the parties treat as proprietary, confidential business information. None of the parties publish such information.

4. Rule 25-22.006(6), Florida Administrative Code, establishes a procedure whereby parties may request a protective order protecting proprietary confidential business information from discovery. Further, while such a request is pending, the information asserted to be confidential is exempt from section 119.07, Florida Statutes.

5. Notwithstanding the assertion that the contracts are proprietary, confidential business documents, a copy of the documents is appended hereto in a sealed envelope. FPUC requests that the Commission enter a protective order determining that these documents are proprietary and confidential pursuant to section 366.093(3), Florida Statutes and exempt from section 119.07, Florida Statutes. Further, pending such determination, FPUC requests the documents be exempt from section 119.07, Florida Statutes, pursuant to section 366.093(2), Florida Statutes and Rule 25-22.006(6), Florida Administrative Code.

WHEREFORE, for the reasons cited, FPUC requests the entry of a Protective Order as to the referenced documents.

Respectfully submitted this 2<sup>nd</sup> day of September, 2003.



NORMAN H. HORTON, JR., ESQ.  
FLOYD R. SELF, ESQ.  
MESSER, CAPARELLO & SELF, P. A.  
Post Office Box 1876  
Tallahassee, FL 32302-1876  
(850) 222-0720

Attorneys for Florida Public Utilities Company

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that true and correct copies of the foregoing have been served by Hand Delivery (\*) and/or U. S. Mail this 2<sup>nd</sup> day of September, 2003 upon the following:

Cochran Keating, Esq.\*  
Division of Legal Services  
Florida Public Service Commission  
2540 Shumard Oak Blvd., Room 370  
Tallahassee, FL 32399-0850

John Butler, P.A.  
Steel Hector & Davis, LLP  
200 South Biscayne Boulevard, Suite 4000  
Miami, Florida 33131-2398

Ms. Angela Llewellyn  
Administrator, Regulatory Coordination  
Tampa Electric Co.  
P.O. Box 111  
Tampa, FL 33601-0111

Mr. R. Wade Litchfield  
Florida Power & Light Company  
700 Universe Blvd.  
Juno Beach, FL 33408-0420

James A. McGee, Esq.  
Progress Energy Florida, Inc.  
P.O. Box 14042  
St. Peterburg, FL 33733-4042

Joseph A. McGlothlin, Esq.  
Vicki Kaufman, Esq.  
McWhirter, Reeves, McGlothlin,  
Davidson Decker Kaufman Arnold & Steen, P.A.  
117 S. Gadsden St  
Tallahassee, FL 32301

John W. McWhirter, Esq.  
McWhirter, Reeves, McGlothlin,  
Davidson Decker Kaufman Arnold & Steen, P.A.  
400 N. Tampa Street, Suite 2450  
Tampa, FL 33602

Ms. Susan D. Ritenour  
Gulf Power Company  
One Energy Place  
Pensacola, FL 32520

Jeffrey A. Stone, Esq.  
Russell A. Badders, Esq.  
Beggs & Lane Law firm  
P.O. Box 12950  
Pensacola, FL 32591-2950

Rob Vandiver, Esq.  
Office of the Public Counsel  
111 West Madison St., Rm 812  
Tallahassee, FL 32399-1400

William G. Walker, III  
Florida Power & Light Company  
215 S. Monroe St., Suite 810  
Tallahassee, FL 32301-1859

Lee L. Willis, Esq.  
James D. Beasley, Esq.  
Ausley & McMullen  
Post Office Box 391  
Tallahassee, FL 32302

  
NORMAN H. HORTON, JR.