

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Review of the retail
rates of Florida Power & Light
Company.

DOCKET NO. 001148-EI
ORDER NO. PSC-02-0082-PCO-EI
ISSUED: January 14, 2002

ORDER GRANTING FLORIDA POWER & LIGHT COMPANY'S MOTION FOR
TEMPORARY PROTECTIVE ORDER CONCERNING PUBLIC COUNSEL'S SECOND
REQUEST FOR PRODUCTION OF DOCUMENTS (NOS. 13-69)

On November 27, 2001, the Office of Public Counsel (OPC) served its Second Request for Production of Documents (Nos. 13-69) on Florida Power & Light Company (FPL). On January 9, 2002, FPL filed a Motion for Temporary Protective Order for certain documents responsive to OPC's request.

FPL states that certain of the documents responsive to OPC's request are confidential, proprietary business information because they contain either customer-specific billing information or forecasted financial information that has not been publicly disclosed. FPL states it intends to and does treat this information as confidential.

FPL further states that it will produce the documents to OPC to allow OPC to determine what information to use in this proceeding so long as the documents are marked confidential and are not publicly disclosed. In addition, FPL requests that OPC provide FPL notice of its intent to use such confidential documents as required in Order No. PSC-01-2111-PCO-EI, the order establishing procedure for this docket.

Rule 25-223.006(6)(a), Florida Administrative Code, states that "...any utility or other person may request a protective order protecting proprietary confidential business information from discovery." Additionally, Rule 25-22.006(6)(c), Florida Administrative Code, states:

When a utility or other person agrees to allow Public Counsel to inspect or take possession of utility information for the purpose of determining what information is to be used in a proceeding before the

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ORDER NO. PSC-02-0082-PCO-EI
DOCKET NO. 001148-EI
PAGE 2

Commission, the utility may request a temporary protective order exempting the information from section 119.07(1), F.S.

To the extent that FPL's responses to OPC's Second Request for Production of Documents (Nos. 13-69) relate to either customer-specific billing information or forecasted financial information, those materials appear to be proprietary confidential business information pursuant to Section 366.093, Florida Statutes. Since the material has been or will be provided to the Office of Public Counsel, FPL's Request for Temporary Protective Order shall be granted, exempting this information from the requirements of Section 119.07, Florida Statutes.

Additionally, if the information is used in the proceeding, it will be treated as confidential as set forth in this Order. If OPC plans to use any of the proprietary confidential business information, it shall notify the Prehearing Officer and all parties of record no later than seven days prior to the beginning of the hearing as indicated in Order No. PSC-01-2111-PCO-EI. In order to maintain continued confidentiality, FPL shall file a Request for Confidential Classification with the Commission within 21 days of the conclusion of the hearing, pursuant to Rule 25-22.006(8)(b), Florida Administrative Code.

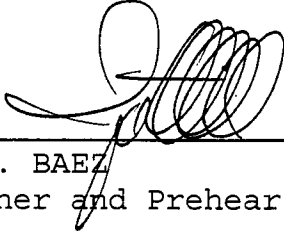
Based on the foregoing, it is

ORDERED by Commissioner Braulio L. Baez, as Prehearing Officer, that Florida Power & Light Company's Request for Temporary Protective Order is granted. It is further

ORDERED that if not used in the proceeding, the material shall be returned to Florida Power & Light Company, as required by Rule 25-22.006(6)(c), Florida Administrative Code.

ORDER NO. PSC-02-0082-PCO-EI
DOCKET NO. 001148-EI
PAGE 3

By ORDER of Commissioner Braulio L. Baez, as Prehearing Officer, this 14th day of January, 2002.



BRAULIO L. BAEZ
Commissioner and Prehearing Officer

(S E A L)

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NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

Mediation may be available on a case-by-case basis. If mediation is conducted, it does not affect a substantially interested person's right to a hearing.

ORDER NO. PSC-02-0082-PCO-EI

DOCKET NO. 001148-EI

PAGE 4

Any party adversely affected by this order, which is preliminary, procedural or intermediate in nature, may request: (1) reconsideration within 10 days pursuant to Rule 25-22.0376, Florida Administrative Code, if issued by a Prehearing Officer; (2) reconsideration within 15 days pursuant to Rule 25-22.060, Florida Administrative Code, if issued by the Commission; or (3) judicial review by the Florida Supreme Court, in the case of an electric, gas or telephone utility, or the First District Court of Appeal, in the case of a water or wastewater utility. A motion for reconsideration shall be filed with the Director, Division of the Commission Clerk and Administrative Services, in the form prescribed by Rule 25-22.060, Florida Administrative Code. Judicial review of a preliminary, procedural or intermediate ruling or order is available if review of the final action will not provide an adequate remedy. Such review may be requested from the appropriate court, as described above, pursuant to Rule 9.100, Florida Rules of Appellate Procedure.