

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Review of 2007 Electric Infrastructure Storm Hardening Plan filed pursuant to Rule 25-6.0342, F.A.C., submitted by Florida Public Utilities Company.

DOCKET NO. 070300-EI

In re: Petition for rate increase by Florida Public Utilities Company.

DOCKET NO. 070304-EI

ORDER NO. PSC-08-0125-PCO-EI

ISSUED: February 26, 2008

ORDER GRANTING MOTION FOR TEMPORARY PROTECTIVE ORDER

On January 8 2008, Florida Public Utilities Company (FPUC) filed a Motion for Temporary Protective Order, pursuant to Rule 25-22.006(6), Florida Administrative Code, covering certain documents sought in discovery by the Office of Public Counsel (OPC).

FPUC states that during the panel depositions of Cheryl Martin, Mehrdad Khojasteh, and Jim Mesite (the Martin Panel) held on December 11, 2007, and of Mark Cutshaw and Don Myers (the Cutshaw Panel) on December 13, 2007, OPC requested several late filed exhibits. Included in late filed exhibits were Late-filed Exhibit No. 14 from the Martin panel which was "Salary Adjustment Information and Late-filed Exhibit No. 1 from the Cutshaw panel which was "Salary Adjustment Information. FPUC contends that both late-filed exhibits are proprietary and confidential pursuant to Section 366.093, Florida Statutes. FPUC contends that both exhibits contain confidential information relating to employee personnel information unrelated to current compensation, duties, qualifications, or responsibilities, the disclosure of which would impair the competitive business of the provider of the information. FPUC asserts that it is seeking protection of the documents as provided in Section 366.093(3)(e) and (f), Florida Statutes, and Rule 25-22.006(6), Florida Administrative Code.

Rule 25-22.006(6), Florida Administrative Code, codifies the Commission's policy protecting confidential information from public disclosure during the discovery process in a manner that is not overly burdensome to both parties. Rule 25-22.006(6)(a), Florida Administrative Code, in pertinent part, 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 Commission, the utility may request a temporary protective order exempting the information from section 119.07(1), Florida Statutes.

Upon consideration, FPUC's Motion for Temporary Protective Order of Late-filed Exhibit No. 14 from the Martin panel and Late-filed Exhibit No. 1 from the Cutshaw panel is

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granted. I find that FPUC has demonstrated that both exhibits appear to be proprietary confidential business information. Accordingly, this information will be protected from disclosure pursuant to Rule 25-22.006(6), Florida Administrative Code.

Based on the foregoing, it is

ORDERED by Nancy Argenziano, as Prehearing Officer, that the Motion for Temporary Protective Order filed by Florida Public Utilities Company is granted.

By ORDER of Commissioner Nancy Argenziano, as Prehearing Officer, this 26th day of February, 2008.



NANCY ARGENZIANO
Commissioner and Prehearing Officer

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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.

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; or (2) 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 Office of Commission Clerk, 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.