

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

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

DOCKET NO. 080366-GU
ORDER NO. PSC-09-0685-CFO-GU
ISSUED: October 14, 2009

TEMPORARY PROTECTIVE ORDER

On August 13, 2009, Florida Public utilities Company (FPUC or Company) filed its Motion for Protective Order and/or Temporary Protective Order based on confidentiality, pursuant to Section 366.093, Florida Statutes (F.S.), and Rule 25-22.006(6), Florida Administrative Code (F.A.C.), covering certain documents sought by the Office of Public Counsel (OPC) in its Third Set of Interrogatories and Third Request for Production of Documents. Also, on September 18, 2009, FPUC made a similar request for OPC's Interrogatory No. 104. The Company states that the information and documents for which it seeks a Temporary Protective Order are being produced in response to OPC's Interrogatory No. 88 (information produced for this interrogatory contain financial statements of both FPUC and its non-regulated propane operations), Interrogatory No. 94 (contains hours and rates charged for tasks included in rate case expense), and Interrogatory No. 104 (invoices from outside consultants and attorneys for rate case expense), and Request for Production of Document No. 31 (requests documents related to payroll).

FPUC contends that the responses and documents responsive to OPC's Interrogatories Nos. 88, 94, and 104, and Request for Production of Document No. 31, contain confidential proprietary business information which would harm the competitive interest of either the Company or the outside consultants who provide their service in competition with other providers. FPUC states that it does not object to providing salary information by position on a non-confidential basis, and understands that there may be a question of whether employee names coupled with salary information should be considered confidential.

Rule 25-22.006(6), F.A.C., 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), F.A.C., 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), F.A.C., 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.

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Upon consideration, pending the final determination of the confidential nature of these documents, the documents responsive to OPC's Interrogatory Nos. 88, 94, and 104, and Request for Production of Document No. 31 shall be protected by a Temporary Protective Order.

Based on the foregoing, it is

ORDERED by Commissioner Nathan A. Skop, as Prehearing Officer, that the Motion for a Temporary Protective Order filed by Florida Public Utilities Company is granted. It is further

ORDERED that the information and documents provided in response to the Office of Public Counsel's Interrogatories Nos. 88, 94, and 104, and Request for Production No. 31 shall be protected by a Temporary Protective Order, pending the final determination of their use before the Commission, at which time a determination of their confidentiality will be made.

By ORDER of Commissioner Nathan A. Skop, as Prehearing Officer, this 14th day of October, 2009.



NATHAN A. SKOP

Commissioner and Prehearing Officer

(S E A L)

RRJ

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 25-22.0376, 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.