

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Adoption of Numeric)
Conservation Goals and)
Consideration of National Energy)
Policy Act Standards (Section)
111) by:)
)
)

FLORIDA POWER & LIGHT COMPANY) DOCKET NO. 930548-EG
FLORIDA POWER CORPORATION) DOCKET NO. 930549-EG
GULF POWER COMPANY) DOCKET NO. 930550-EG
TAMPA ELECTRIC COMPANY) DOCKET NO. 930551-EG
_____) ORDER NO. PSC-94-0655-CFO-EG
ISSUED: May 31, 1994

ORDER GRANTING PERMANENT PROTECTIVE ORDER

On April 22, 1994, Florida Power and Light Company (FPL) filed a Request for Specified Confidential Classification of documents requested during discovery. The requested documents are:

- 1) Ex. B - FPL's SO2 Allowance Auction Bid Price Strategy, Bates No. 601324-601328
- 2) Ex. C - Graphs, Which Analyze the Cost of FPL's SO2 Reduction Measures, Bates Nos. 611456, 611458, 611462, 611466
- 3) Ex. D - Residential and Commercial Options Data Summary for FPL, Bates No. 305737-305738, and
- 4) Ex. E - 1992 Residential DSM Program Evaluation Baseline Results. Conservation Water Heating Program Appendices, July 1993, Bates No. 307646-307649.

On April 28, 1994, FPL filed a Motion for a Protective Order governing access to these four groups of documents. FPL states in its Motion that it is authorized to represent that Florida Power Corporation (FPC), Tampa Electric Company (TECO), Gulf Power Company (Gulf), Florida Municipal Electric Association (FMEA), Jacksonville Electric Authority (JEA), and the City of Tallahassee, do not object to entry of a protective order that does not grant them access to Exhibits B and C described above.

Florida law provides, in section 119.01, Florida Statutes, that documents submitted to governmental agencies shall be public records. The only exceptions to this law are specific statutory exemptions, and exemptions granted by governmental agencies

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pursuant to the specific terms of a statutory provision.' This law derives from the concept that government should operate in the "sunshine." It is our view that parties must meet a very high burden when requesting a protective order during a proceeding before this Commission.

For those documents receiving confidential status pursuant to FPL's request dated April 22, 1994, I find that FPL has met its burden to have a protective order govern review of these documents. This Order shall specify procedures for the handling of confidential information during the course of the proceeding and shall protect such information contained in exhibits B, C, D, and E from disclosure outside the proceeding, to the extent such information is held confidential pursuant to order, Section 366.093 (2), Florida Statutes, or Rule 25-22.006(9), Florida Administrative Code.

The following terms and conditions shall govern the parties' access to all information that is ruled confidential pursuant to the separate Order, Rule 25-22.006, Florida Administrative Code, or section 366.093(2), Florida Statutes:

- 1) Parties shall take stringent measures to preserve the confidentiality of the protected information.
- 2) Parties shall use the confidential information only for the purposes of participating in this docket.
- 3) Confidential information shall be disclosed only to those representatives of a party that have a need to know the information for participation in this docket.
- 4) Each representative of a party to whom the confidential information is provided shall limit the number of copies made of the information to that necessary for participation in this docket and shall keep an exact record of all such copies made.
- 5) A procedure shall be developed, subject to FPL approval, for the return of the documents and all copies at the conclusion of the docket.
- 6) The obligation to not disclose the confidential information shall be continuing and survive the conclusion of this docket.

7) Receipt of a copy of the confidential documents shall constitute an acknowledgement that FPL will not have an adequate remedy at law, and that this Protective Order may be enforced through an injunction if disclosure is threatened.

8) Pursuant to Fla. R. Civ. P. 1.280 (c) and Fla. R. Civ. P. 1.380(a)(4), the prevailing party in an action to enforce this Protective Order shall be entitled to reasonable expenses incurred in that action, which may include attorneys' fees, unless the appropriate ruling body finds that the opposition was justified or that other circumstances make an award of expenses unjust.


9) Should any party be unable or unwilling to accept the conditions set out above, the party shall not be provided with a copy of the confidential information. The party shall, however, be permitted to review the information at either the Commission or FPL during normal business hours. All parties will continue to be bound by all other terms and conditions of this Protective Order.

It is therefore

ORDERED by Chairman J. Terry Deason, as Prehearing Officer, that Florida Power and Light Company's Motion for a Protective Order filed April 28, 1994, is granted; and access to all documents referenced above which are granted confidential status by separate order shall be governed by the preceding terms and conditions. It is further

ORDERED that Florida Power Corporation, Tampa Electric Company, Gulf Power Company, Florida Municipal Electric Association, Jacksonville Electric Authority and the City of Tallahassee shall not have access to Exhibits B and C.

By ORDER of Chairman J. Terry Deason, as Prehearing Officer, this 31st day of May, 1994.



J. TERRY DEASON, Chairman and
Prehearing Officer

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NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.59(4), 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.

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 25-22.038(2), 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 Records and Reporting, 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.