

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Review of investor-owned
electric utilities' risk management
policies and procedures.
_____)

) Docket No. 011605-EI
) Dated: April 9, 2002
)
)

**FLORIDA POWER & LIGHT COMPANY'S MOTION FOR
TEMPORARY PROTECTIVE ORDER CONCERNING PUBLIC COUNSEL'S
FIRST REQUEST FOR PRODUCTION OF DOCUMENTS**

Florida Power & Light Company ("FPL"), pursuant to Section 366.093, Florida Statutes and Rule 25-22.006, F.A.C., hereby moves for the entry of a temporary protective order covering the document sought by the Office of Public Counsel ("OPC") in response to OPC's First Request for Production of Documents (the "First Production Request"). In support of its motion, FPL states as follows:

1. On March 6, 2002, OPC served the First Production Request by mail on FPL. It requests FPL to produce the "Dean Study" that is referenced on page 132 of Gerald Yupp's October 23, 2001, deposition. The Dean Study contains confidential, proprietary business information that relates to FPL's fuel procurement strategies, the disclosure of which would impair FPL's ability to contract for fuel on favorable terms. FPL intends to, and does, treat this information as confidential.

2. Section 366.093(2), Florida Statutes and Rule 25-22.006(6), F.A.C., direct that all information produced pursuant to a discovery request for which proprietary confidential status has been sought shall be treated by OPC as confidential and shall be exempt from section 119.07(1), Florida Statutes, while OPC determines whether it will use the information in a

DOCUMENT NUMBER-DATE

03977 APR 10 8

FPSC-COMMISSION CLERK

Commission proceeding. Moreover, in ruling on motions for temporary protective orders in Gulf Power Company's rate proceeding, the Commission recently commented on the procedure to be followed in the event that OPC decides to use confidential information in the proceeding: "If the information is used in the proceeding, it will be treated as confidential as set forth in this Order. In order to maintain continued confidentiality, Gulf 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." Order No. PSC-01-2392-PCO-EI, Docket No. 010949-EI. FPL is by this motion seeking protection of the above-referenced documents as provided in section 366.093(2), Rule 25-22.006(6) and Order No. PSC-01-2392-PCO-EI. FPL has recorded the appropriate objections to producing such confidential, proprietary business information, but will produce the documents to OPC marked as confidential subject to this motion, the above-cited law, rule and order, and its objections. By following this procedure, FPL is not waiving its rights to seek further relief as necessary to make certain that its confidential, proprietary business information is not publicly disclosed.

3. FPL has contacted OPC, which stated that it has no objection to this motion for temporary protective order.

WHEREFORE, FPL moves the Commission to enter an order granting its motion for temporary protective order relating to the "Dean Study" that is produced in response to OPC's First Production Request, instructing OPC to continue to treat those documents as confidential, and requiring OPC to provide FPL notice of its intent to use such confidential documents as

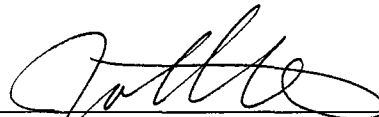
required in Order No. PSC-02-0192-PCO-EI, the order establishing procedure for this docket.

Respectfully submitted,

R. Wade Litchfield, Esq.
Attorney
Florida Power & Light Company
700 Universe Boulevard
Juno Beach, Florida 33408-0420
Telephone: 561-691-7101

Steel Hector & Davis LLP
Attorneys for Florida Power & Light Company
200 South Biscayne Boulevard
Suite 4000
Miami, Florida 33131-2398
Telephone: 305-577-2939

By:



John T. Butler, P.A.
Fla. Bar No. 283479

CERTIFICATE OF SERVICE
Docket No. 011605-EI

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by Federal Express (*) or United States Mail this 9th day of April, 2002, to the following:

Susan D. Ritenour
Gulf Power Company
One Energy Place
Pensacola, FL 32520-0780

Florida Industrial Power Users Group
c/o John McWhirter, Jr., Esq.
McWhirter Reeves Law Firm
P.O. Box 3350
Tampa, FL 33601-3350

Angela Llewellyn
Tampa Electric Company
P.O. Box 111
Tampa, FL 33601-0111

Robert Vandiver, Esq.*
Office of Public Counsel
c/o The Florida Legislature
111 W. Madison Street, Room 812
Tallahassee, FL 32399-1400


Jeffrey Stone, Esq.
Beggs and Lane Law Firm
3 West Garden Street, Suite 700
Pensacola, FL 32576

James Beasley/Lee Willis
Ausley & McMullen Law Firm
227 South Calhoun Street
Tallahassee, FL 32301

Joseph A. McGlothlin, Esq.
Vicki Gordon Kaufman, Esq.
McWhirter Reeves
117 South Gadsden
Tallahassee, Florida 32301

Cochran Keating, IV*
Senior Attorney
Florida Public Service Commission
2540 Shumard Oak Blvd.
Tallahassee, FL 32399-0850

Michael G. Briggs
Reliant Energy, Inc.
801 Pennsylvania Avenue, Suite 620
Washington, D.C. 20004

By: 
John T. Butler, P.A.