

BEFORE THE PUBLIC SERVICE COMMISSION

In re: Petition for authority to recover prudently incurred storm restoration costs related to 2004 storm season that exceed storm reserve balance, by Florida Power & Light Company.

DOCKET NO. 041291-EI
ORDER NO. PSC-05-0334-PCO-EI
ISSUED: March 23, 2005

ORDER GRANTING MOTION FOR TEMPORARY PROTECTIVE ORDER

On March 9, 2005, Florida Power & Light Company (FPL) 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). FPL states that it has been authorized by counsel for OPC to represent that OPC does not object to the motion.

FPL states that on March 7, 2005, it served OPC with documents responsive to OPC's Fourth Request for Production of Documents. FPL contends that the documents responsive to Document Request Nos. 22, 24, 33-35, and 37 contain confidential information relating to bids and other contractual data, the disclosure of which could harm FPL's ability to contract on favorable terms in the future, to the detriment of FPL and its customers. Other confidential information is competitively sensitive information, the disclosure of which would impair the competitive interests of the provider of the information. FPL asserts that it is seeking protection of the documents as provided in Section 366.093(3), 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, FPL's Motion for Temporary Protective Order of documents responsive to OPC's First Request for Production of Documents, Nos. 22, 24, 33-35 and 37 is granted. I find that FPL has demonstrated that the material requested by OPC appears to be proprietary confidential business information. Accordingly, this information will be protected from disclosure pursuant to Rule 25-22.006(6), Florida Administrative Code. As provided in Order No. PSC-04-1150-PCO-EI, issued November 18, 2004, the Order Establishing Procedure

DOCUMENT NUMBER-DATE

02847 MAR 23 05

FPLSC-COMMISSION CLERK

for this docket, OPC is required to provide FPL and all other parties seven days notice of its intent to use any confidential information at the hearing.

Based on the foregoing, it is

ORDERED by Commissioner Charles M. Davidson, as Prehearing Officer, that the Motion for Temporary Protective Order filed by Florida Power & Light Company is granted.

By ORDER of Commissioner Charles M. Davidson, as Prehearing Officer, this 23rd day of March, 2005



CHARLES M. DAVIDSON
Commissioner and Prehearing Officer

(S E A L)

KEF

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 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

ORDER NO. PSC-05-0334-PCO-EI
DOCKET NO. 041291-EI
PAGE 3

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.

