

ORIGINAL

Matilda Sanders

From: Jack_Leon@fpl.com
Sent: Friday, July 29, 2005 11:09 AM
To: Filings@psc.state.fl.us
Cc: Wade_Litchfield@fpl.com; Natalie_Smith@fpl.com; Bill_Feaster@fpl.com; Kirk_Gillen@fpl.com; Nanci_Nesmith@fpl.com; Patrick_Bryan@fpl.com; David_Lee@fpl.com; Lynne_Adams@fpl.com
Subject: Electronic Filing for Docket Nos. 050045-EI & 050188-EI / FPL's Motion for Temporary Protective Order regarding OPC's 14th Request for Production of Documents No. 299

Attachments: Motion for Temporary Protective Order - OPCs 14th POD No. 299.doc



Motion for
Temporary Protec
Electronic Filing

a. Person responsible for this electronic filing:

Joaquin E. Leon, Esq.
9250 W. Flagler St., Suite 6514
Miami, FL 33174
(305) 552-3922
jack_leon@fpl.com

b. Docket No. 050045-EI
In re: Petition for rate increase by
Florida Power & Light Company.

Docket No. 050188-EI
In re: 2005 comprehensive depreciation
study by Florida Power & Light Company.

c. Documents being filed on behalf of Florida Power & Light Company.

d. There are a total of 5 pages in the attached document.

e. The document attached for electronic filing is Florida Power & Light Company's FPL's Motion for Temporary Protective Order regarding OPC's 14th Request for Production of Documents No. 299.

(See attached file: Motion for Temporary Protective Order - OPCs 14th POD No. 299.doc)

Thank you for your attention and cooperation to this request.

Jack Leon
Senior Attorney
250 W. Flagler St., Suite 6514
Miami, FL 33174
(305) 552-3922
Fax: (305) 552-3865
Cell: (305) 439-1661

ECR _____

GCL _____

OPC _____

RCA _____

SCR _____

SGA _____

SEC 1

OTH KUMP

DOCUMENT NUMBER-DATE

07308 JUL 29 03

COMMISSION CLERK

BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for rate increase by)
Florida Power & Light Company.)
_____)
In re: 2005 comprehensive depreciation)
study by Florida Power & Light Company.)
_____)

Docket No. 050045-EI

Docket No. 050188-EI

Filed: July 29, 2005

**FLORIDA POWER & LIGHT COMPANY'S
MOTION FOR TEMPORARY PROTECTIVE ORDER**

Pursuant to Section 366.093(3), Florida Statutes, and Rule 25-22.006(6)(c), Florida Administrative Code, Florida Power & Light Company ("FPL"), hereby moves the Florida Public Service Commission (the "PSC" or the "Commission"), through the Prehearing Officer, for a temporary protective order to exempt from Section 119.07(1), Florida Statutes, certain confidential information in FPL's response to OPC's Fourteenth Set of Requests for Production of Documents No. 299 in connection with FPL's Petition for Rate Increase, and in support states:

1. OPC has requested that it be permitted to inspect and potentially take possession of certain of FPL's confidential, proprietary business information in FPL's response to OPC's Fourteenth Set of Requests for Production of Documents No. 299 in Docket No. 050045-EI.

2. Subsection (6)(c) of the Commission's Confidentiality Rule, 25-22.006, provides in relevant part as follows with respect to a utility allowing OPC to take possession of utility information:

[T]he utility may request a temporary protective order exempting the information from Section 119.07(1), Florida Statutes. If the information is to be used in a proceeding before the Commission, then the utility must file a specific request for a protective order under paragraph (a) above. If the information is not to be used in a proceeding before the Commission, then Public Counsel shall return the information to the utility in accordance with the record retention requirements of the Department of State.

See Rule 25-22.006(6)(c).

DOCUMENT NUMBER-DATE
07308 JUL 29 05
FPSC-COMMISSION CLERK

3. The confidential information relates to competitive interests and to customer-specific data. As to the competitive interests information, the disclosure of it would impair the competitive business of the provider of the information. This information is exempt from the Public Records Act pursuant to Section 366.093(3)(e), Florida Statutes. As to the information related to customer-specific data, FPL has a corporate policy not to disclose or release customer-specific information without the consent of the customer. The FPL customers referred to in this information have not consented to the release of its customer-specific information. In addition, much of the information for which FPL seeks confidential classification is confidential and proprietary to the customers, the release of which would harm the customers' business operations. This information may, in some instances, constitute trade secrets to the customers, and is certainly information relating to the customers' competitive interests, the disclosure of which would impair the competitive business of the customers. Information of this nature is proprietary, confidential business information within the meaning of Section 366.093(3), Florida Statutes (2003). The Commission has previously determined that the type of information for which FPL seeks protection is proprietary, confidential business information. *See, e.g.*, Order Nos. PSC-03-1198-CFO-EG, and PSC-00-0628-CFO-EG.

4. FPL respectfully requests that the Commission enter a temporary protective order affording FPL the protection that is needed to provide OPC the confidential information in FPL's response to OPC's Fourteenth Set of Requests for Production of Documents No. 299.

5. FPL has been authorized by counsel for OPC to represent that OPC does not object to the granting of this motion.

WHEREFORE, for the foregoing reasons, FPL respectfully requests that the Commission enter a temporary protective order protecting against public disclosure, the confidential

information in FPL's responses to OPC's Fourteenth Set of Requests for Production of Documents No. 299 in connection with FPL's Petition for Rate Increase.

Respectfully submitted this 29th day of July, 2005.

R. Wade Litchfield, Esquire
Natalie F. Smith, Esquire
Attorneys for Florida Power & Light Company
700 Universe Boulevard
Juno Beach, Florida 33408-0420

By: *s/ Natalie F. Smith*

Natalie F. Smith, Esquire
Florida Bar No. 470200

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of Florida Power & Light Company's Motion for Temporary Protective Order, has been furnished electronically and by United States Mail this 29th day of July, 2005 to the following:

Wm. Cochran Keating, IV, Esquire
Katherine E. Fleming, Esquire
Jeremy Susac, Esquire
Florida Public Service Commission
Division of Legal Services
Gerald L. Gunter Building
2540 Shumard Oak Blvd.
Tallahassee, FL 32399-0850

Harold A. McLean, Esquire
Charles J. Beck, Esquire
Office of Public Counsel
c/o The Florida Legislature
111 W. Madison Street, Room 812
Tallahassee, FL 32399-1400

John W. McWhirter, Esquire
c/o McWhirter Reeves, P.A.
400 North Tampa Street, Suite 2450
Tampa, Florida 33602
Attorneys for the Florida Industrial Power
Users Group

Timothy J. Perry, Esquire
McWhirter Reeves, P.A.
117 South Gadsden Street
Tallahassee, Florida 32301
Attorneys for the Florida Industrial Power
Users Group

Miami-Dade County Public Schools *
c/o Jaime Torrens
Dist. Inspections, Operations and
Emergency Mgt.
1450 N.E. 2nd Avenue
Miami, Florida 33132

D. Bruce May, Jr., Esquire *
Holland & Knight, LLP
Post Office Drawer 810
Tallahassee, Florida 32302-0810
Attorneys for Miami-Dade County Public
Schools

David Brown, Esquire
McKenna Long & Aldridge LLP
One Peachtree Center
303 Peachtree Street, N.E., Suite 5300
Atlanta, Georgia 30308
Attorneys for The Commercial Group

Michael B. Twomey, Esquire
P.O. Box 5256
Tallahassee, Florida 32314-5256
Attorney for AARP

Robert Scheffel Wright, Esq.
John T. LaVia, III, Esq.
Landers & Parsons, P.A.
310 West College Avenue
Tallahassee, Florida 32301
Attorneys for Florida Retail Federation

Major Craig Paulson, Esquire
AFCESA/ULT
139 Barnes Drive
Tyndall Air Force Base, Florida 32403
Attorney for Federal Executive Agencies

Mark F. Sundback, Esq.
Kenneth L. Wiseman, Esq.
Gloria J. Halstead, Esq.
Jennifer L. Spina, Esq.
Andrews & Kurth LLP
1701 Pennsylvania Avenue, NW
Suite 300
Washington, D.C. 20006
Attorneys for South Florida
Hospital and Healthcare
Association

Mr. Stephen J. Baron
Mr. Lane Kollen
J. Kennedy Associates, Inc.
570 Colonial Park Drive, Suite 305
Roswell, GA 30075
Consultants for South Florida Hospital and
Healthcare Association

By: *s/ Natalie F. Smith*

Natalie F. Smith, Esquire
Florida Bar No. 470200

* Indicates interested party