

ORIGINAL

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Subject: Docket No. 070001-EI -- FPL's motion for Temporary Protective Order (OPC's Second Request for Production of Documents Nos. 2-8)
Attachments: Motion for TPO (OPC POD#2-8).doc

Electronic Filing

a. Person responsible for this electronic filing:

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b. Docket No. 070001-EI

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

d. There are 4 pages total.

e. The document attached for electronic filing is Florida Power & Light Company's Motion for Temporary Protective Order Regarding Office of Public Counsel's Second Request for Production of Documents (Nos. 2-8).

(See attached file: Motion for TPO (OPC POD#2-8).doc)

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FPSC-COMMISSION CLERK

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Fuel and Purchased Power)
Cost Recovery Clause with Generating)
Performance Incentive Factor)

Docket No: 070001-EI
Filed: June 22, 2007

**FLORIDA POWER & LIGHT COMPANY'S MOTION FOR TEMPORARY
PROTECTIVE ORDER REGARDING OFFICE OF PUBLIC COUNSEL'S SECOND
REQUEST FOR PRODUCTION OF DOCUMENTS (NOS. 2-8)**

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 Commission, through the Prehearing Officer, for a temporary protective order to exempt from Section 119.07(1) confidential information contained in responses by FPL to the Office of Public Counsel's ("OPC's") Second Request for Production of Documents (Nos. 2-8)¹ in the above docket (the "Confidential Response Information"), and in support states:

1. OPC's Request for Production of Documents Nos. 4 and 7 ask FPL to produce documents that support the A Schedule filings and fuel costs that are recoverable through the fuel clause. These documents contain and/or comprise fuel hedging information. FPL seeks confidential protection for the fuel hedging information because it comprises trade secrets of FPL, which allow FPL to purchase and sell fuel and electric power on favorable terms for FPL and its customers. The disclosure of that trade-secret information would provide other participants in the fuel and electric power markets insight into FPL's marketing and trading

¹ The OPC document requests to which this motion relates were entitled "Citizen's Third Request to Produce Documents to Florida Power & Light Company (Nos. 8-14)." However, that was the result of mistaken numbering. Previously, OPC has only served one document request in this docket, so the current document requests should have been designated as the second set and numbered 2 through 8. The confusion arose because OPC had served a second set of document requests numbered 2 through 7 in this docket that were actually directed to Environmental Cost Recovery Clause issues and thus intended for Docket No. 070007-EI. When OPC discovered that those document requests had been served in the wrong docket, they were withdrawn and re-served in Docket No. 070007-EI.

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practices that would allow them to anticipate FPL's marketing and trading decisions and/or impair FPL's ability to negotiate, to the detriment of FPL and its customers. *See* § 366.093(3) (a) and (e), Fla. Stat. (2006).

2. OPC's Request for Production of Documents No. 4 asks FPL to produce documents that support the A Schedule filings. In response to that request, FPL is producing documents outlining fuel adjustment practices and procedures, which were generated for internal audits conducted in connection with Sarbanes-Oxley compliance. FPL seeks confidential protection for those documents because they contain or relate to internal auditing controls. *See* § 366.093(3) (b), Fla. Stat. (2006).

3. For the reasons just described, the Confidential Response Information constitutes proprietary confidential business information and is protected by Sections 366.093(3) (a), (b) and (e) of the Florida Statutes.

4. Rule 25-22.006(6) (c) provides in relevant part:

[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.

5. FPL respectfully requests that the Commission enter a temporary protective order affording FPL the protection that is needed in order to allow OPC to take possession of the Confidential Response Information.

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

WHEREFORE, FPL respectfully requests that the Commission enter a temporary protective order protecting the Confidential Response Information, as described above, against public disclosure.

Respectfully submitted,

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CERTIFICATE OF SERVICE

Docket No. 070001-EI

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by electronic delivery on June 22, 2007 to the following:

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