

Matilda Sanders

From: Ann Bassett [abassett@lawfla.com]
Sent: Thursday, November 08, 2007 3:23 PM
To: Filings@psc.state.fl.us
Subject: Docket No. 070304-EI
Attachments: 2007-11-08, 070304, FPUC's Request for Protective Order and Temporary Protective Order.pdf

The person responsible for this electronic filing is:

Norman H. Horton, Jr.
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The Docket No. is 070304-EI, Florida Public Utilities Company's Petition for Rate Increase

This is being filed on behalf of Florida Public Utilities Company

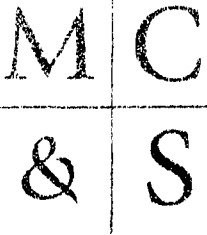
Total Number of Pages is 11

Florida Public Utilities Company's Request for Protective Order and Temporary Protective Order

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FPSC - COMMISSION CLERK



MESSER CAPARELLO & SELF, P.A.

Attorneys At Law

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November 8, 2007

VIA ELECTRONIC FILING

Ms. Ann Cole, Director
Commission Clerk and Administrative Services
Room 110, Easley Building
Florida Public Service Commission
2540 Shumard Oak Blvd.
Tallahassee, Florida 32399-0850

Re: Docket No. 070304-EI

Dear Ms. Cole:

Enclosed for filing on behalf of Florida Public Utilities Company is an electronic version of Florida Public Utilities Company's Request for Protective Order and Temporary Protective Order in the above referenced docket.

Thank you for your assistance with this filing.

Sincerely yours,

A handwritten signature in black ink, appearing to read 'Norman H. Horton, Jr.', written over a horizontal line.

Norman H. Horton, Jr.

NHH/amb
Enclosure
cc: Ms. Cheryl M. Martin
Parties of Record

DOCUMENT NO. DATE

10197-07 11/08/07
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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for Rate Increase by Florida)
Public Utilities Company)
_____)

Docket No. 070304-EI
Date Filed: November 8, 2007

**REQUEST FOR PROTECTIVE ORDER AND
TEMPORARY PROTECTIVE ORDER**

COMES NOW Florida Public Utilities Company ("FPUC"), pursuant to section 366.093, Florida Statutes, and Rule 25-22.006(6), Florida Administrative Code, and requests a protective order and a temporary protective order as to items requested by the Office of Public Counsel ("OPC") in their Second Request for Production of Documents and as grounds states:

1. On October 9, 2007, the OPC served their Second Request for Production of Documents on FPUC wherein the Company was requested to produce a number of documents. Several of the requested documents contain information which the Company considers to be proprietary and confidential as defined in Section 366.093, Florida Statutes, and which it treats as such. FPUC has entered an objection to these requests but has offered to make them available for review.

2. Section 366.093(2), Florida Statutes, and Rule 25-22.006(6), Florida Administrative Code, establish procedures for the issuance of a protective order in discovery in cases before the Commission. Rule 25-22.006(6)(c), permits a utility to allow the Office of Public Counsel ("OPC") to inspect or take possession of information for the purpose of determining whether that information will be used in a proceeding subject to a temporary protective order. Since this request is from the OPC such procedure should suffice, however, inasmuch as the Commission Staff may also have access to the responses, FPUC would request that the Commission enter a Protective Order and/or a

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Temporary Protective Order exempting the identified information from public disclosure.

3. The specific documents at issue are identified on Attachment A hereto. There is an issue as to whether a Protective Order pursuant to Rule 25-22.006 (6) is sufficient for some of the requested documents and there may be some requests which are currently too vague for response but the Company has offered to make these documents available as well once they have been identified.

4. Pursuant to Rule 25-22.006(6)(c), the Company is making the requested documents available to the OPC for inspection subject to nondisclosure as described in that section. The Company would also make such documents available to Staff or review upon issuance of a protective order.

For the reasons given, FPUC requests the Commission to determine the identified information to be confidential information, exempt from section 119.07(1), Florida Statutes, and to issue the appropriate order(s) protecting such information.

Respectfully submitted,

MESSER, CAPARELLO & SELF, P. A.
Post Office Box 15579
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(850) 222-0720


NORMAN H. HORTON, JR., ESQ.

Attorneys for Florida Public Utilities Company

ATTACHMENT "A"

Request No. 2. Please provide a complete set of all workpapers not otherwise provided in responding to the following request, upon which the Company relied upon in preparing its filing in Docket No. 070304-EI.

Reason: The Company is unable to determine what specific documents are sought and has identified this request as confidential in order to preserve that objection. Upon clarification and specification of the documents sought they may not be deemed confidential.

Request No. 24. Please provide a copy of all bids, contracts, or estimates for consultant, legal fees, and other various vendors included in rate case expense shown in MFR schedule C-10.

Reason: This request would require disclosure of information concerning bids or other contractual information the disclosure of which could impair the efforts of the Company to contract on favorable terms.

Request No. 28. Please provide a copy of all documents used to analyze the salary levels of its employees undertaken in 2006 and 2007 by FPUC's Human Resources department.

Reason: The request is for surveys related to salary levels and disclosure could affect the efforts of the Company to compete with other employers or retain employees. The requested information is not related to specific compensation but to an overall analysis of salary levels.

Request No. 31. Please provide a copy of all minutes from the board of directors for 2006 to date.

Reason: The minutes provide a records of all activities of the Company including non-regulated

operations and non-electric utility operations. Disclosure of the minutes would disclose business plans, programs and activities which if made public would be harmful to the Company.

Request No. 36. Please provide a copy of the bids, contracts or estimates for the projected plant additions to distribution plant reflected on Schedule B-7 (2008) page 1 of 3 in the MFRs.

Reason: The formulas used in developing the recommendations relative to cost of capital testimony and issues were developed by and are used by consultants retained by the Company. Such formulas are the property of the Consultants and have a value to the Consultants in their profession. As such, these formulas constitute trade secrets and disclosure of the formulas would harm the owner of the property.

Request No. 47. With reference to page 30, lines 11-15, please provide the data and workpapers used to develop the six basis point deficiency. Please provide the data and work papers in both paper and electronic (Microsoft Excel Worksheet) forms. For the Microsoft Excel version, please include keep all formulas embedded in the worksheet.

Reason: The formulas used in developing the recommendations relative to cost of capital testimony and issues were developed by and are used by consultants retained by the Company. Such formulas are the property of the Consultants and have a value to the Consultants in their profession. As such, these formulas constitute trade secrets and disclosure of the formulas would harm the owner of the property.

Request No. 48. With reference to page 31, lines 1-16, please provide the source documents, data and workpapers used to develop the long-term debt cost rate of 7.96%.

Please provide the data and work papers in both paper and electronic (Microsoft Excel Worksheet) forms. For the Microsoft Excel version, please include keep all formulas embedded in the worksheet.

Reason: The formulas used in developing the recommendations relative to cost of capital testimony and issues were developed by and are used by consultants retained by the Company. Such formulas are the property of the Consultants and have a value to the Consultants in their profession. As such, these formulas constitute trade secrets and disclosure of the formulas would harm the owner of the property.

Request No. 49. With reference to page 33, lines 1-13, please provide the source documents, data and workpapers used to develop the short-term debt cost rate of 6.81%. Please provide the data and work papers in both paper and electronic (Microsoft Excel Worksheet) forms. For the Microsoft Excel version, please include keep all formulas embedded in the worksheet.

Reason: The formulas used in developing the recommendations relative to cost of capital testimony and issues were developed by and are used by consultants retained by the Company. Such formulas are the property of the Consultants and have a value to the Consultants in their profession. As such, these formulas constitute trade secrets and disclosure of the formulas would harm the owner of the property.

Request No. 52. With reference to page 53 and 54, and Exhibit 7, please provide the source documents, data and workpapers used to develop the dividend yields and expected growth rates for each of the companies in the electric and gas groups. Please provide the data and work papers in both paper and electronic

(Microsoft Excel Worksheet) forms. For the Microsoft Excel version, please include keep all formulas embedded in the worksheet.

Reason: The formulas used in developing the recommendations relative to cost of capital testimony and issues were developed by and are used by consultants retained by the Company. Such formulas are the property of the Consultants and have a value to the Consultants in their profession. As such, these formulas constitute trade secrets and disclosure of the formulas would harm the owner of the property.

Request No. 53. With reference to page 54, lines 7-8, please provide the source documents, data and workpapers used for the multi-stage DCF models for the electric and gas groups. Please provide the data and work papers in both paper and electronic (Microsoft Excel Worksheet) forms. For the Microsoft Excel version, please include keep all formulas embedded in the worksheet.

Reason: The formulas used in developing the recommendations relative to cost of capital testimony and issues were developed by and are used by consultants retained by the Company. Such formulas are the property of the Consultants and have a value to the Consultants in their profession. As such, these formulas constitute trade secrets and disclosure of the formulas would harm the owner of the property.

Request No. 62. Please provide electronic copies of all Exhibits (DC-RC-1 through DC-RC-12) and the workpapers used in developing the Exhibits. In addition, please provide all data that is used but not presented (such as individual company data). Please provide the data and work papers in both paper and electronic (Microsoft Excel Worksheet) forms. For the Microsoft Excel version, please

include keep all formulas embedded in the worksheet.

Reason: The formulas used in developing the recommendations relative to cost of capital testimony and issues were developed by and are used by consultants retained by the Company. Such formulas are the property of the Consultants and have a value to the Consultants in their profession. As such, these formulas constitute trade secrets and disclosure of the formulas would harm the owner of the property.

Request No. 63. With reference to Exhibit DC-RC-6, pages 1 and 2, please provide the methodology, workpapers, and data used to calculate the expected market returns of 10.91%, 15.10%, and 13.00%. Please provide the data and work papers in both paper and electronic (Microsoft Excel Worksheet) forms. For the Microsoft Excel version, please include keep all formulas embedded in the worksheet.

Reason: The formulas used in developing the recommendations relative to cost of capital testimony and issues were developed by and are used by consultants retained by the Company. Such formulas are the property of the Consultants and have a value to the Consultants in their profession. As such, these formulas constitute trade secrets and disclosure of the formulas would harm the owner of the property.

Request No. 64. With reference to Exhibit DC-RC-7, pages 1 and 2, please provide the methodology, workpapers, and data used to calculate the expected DCF growth rate for each of the companies. Please provide the data and work papers in both paper and electronic (Microsoft Excel Worksheet) forms. For the Microsoft Excel version, please include keep all formulas embedded in the

worksheet.

Reason: The formulas used in developing the recommendations relative to cost of capital testimony and issues were developed by and are used by consultants retained by the Company. Such formulas are the property of the Consultants and have a value to the Consultants in their profession. As such, these formulas constitute trade secrets and disclosure of the formulas would harm the owner of the property.

Request No. 65. With reference to Exhibit DC-RC-8, pages 1 and 2, please provide the methodology, workpapers, and data used to calculate the risk premiums and cost of equity capital using the risk premium analysis. Please provide the data and work papers in both paper and electronic (Microsoft Excel Worksheet) forms. For the Microsoft Excel version, please include keep all formulas embedded in the worksheet.

Reason: The formulas used in developing the recommendations relative to cost of capital testimony and issues were developed by and are used by consultants retained by the Company. Such formulas are the property of the Consultants and have a value to the Consultants in their profession. As such, these formulas constitute trade secrets and disclosure of the formulas would harm the owner of the property.

Request No. 66. With reference to Exhibit DC-RC-9, pages 1-6, please provide the methodology, workpapers, and data used to calculate the returns for the companies in the average returns study. Please provide the data and work papers in both paper and electronic (Microsoft Excel Worksheet) forms. For the Microsoft Excel version, please include keep all formulas embedded in the

worksheet.

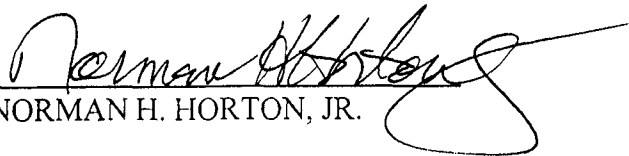
Reason: The formulas used in developing the recommendations relative to cost of capital testimony and issues were developed by and are used by consultants retained by the Company. Such formulas are the property of the Consultants and have a value to the Consultants in their profession. As such, these formulas constitute trade secrets and disclosure of the formulas would harm the owner of the property.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that true and correct copies of the foregoing have been served by Hand Delivery this 8th day of November, 2007 upon the following:

Katherine Fleming, Esq.
Martha Brown, Esq.
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