

**BEFORE THE PUBLIC SERVICE COMMISSION**

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

Docket No.: 070304-EI

Filed: November 9, 2007

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**MOTION TO COMPEL**

The Citizens of the State of Florida (Citizens) hereby file their Motion to Compel requesting that the Prehearing Officer issue an order requiring Florida Public Utilities Company (FPUC) to produce all documents responsive to Citizens' Request for Production of Documents No. 47, 48, 49, 52, 53, 62, 63, 64, 65, and 66, and as grounds state the following:

1. By Order No. PSC-07-0804-PCO-EI, issued October 3, 2007, Order Establishing Procedure (OEP), Florida Public Utilities Company (FPUC) is required to produce its discovery responses thirty days from the date of service. On October 9, 2007, Citizens' served their Second Request for Production of Documents (Nos. 2- 82). The Requests for Production of Documents relevant to the Motion to Compel are as follows:

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.
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.

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.
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.
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.
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.
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.
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.
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.

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.

2. All of the above discovery requests are reasonable calculated to address the cost of capital issues raised by the Company in the testimony and exhibits of the Company's expert witness in its request for base rate increase.

3. The Company's objection to these requests that it only has to produce the paper or electronic version assumes that the paper version and an electronic version would result in the same information being produced - which is not the case. Citizens need both versions because they provide different information. The paper format would provide the finalized results from the Company consultant's input into his formula. Whereas, the electronic version of the Microsoft Excel spreadsheet contains the embedded formulas, input data, as well as the end results.

4. The electronic versions with the embedded formulas are necessary to allow Citizens to test that their consultant's results are able to be duplicated. Further, it allows Citizens to ensure that the input data is the correct data and that no data was omitted in running the information through the formulas. Without access to the input data to the formulas the Company consultant used, Citizens will be unable to determine if the results are correct, even if the formula was correct. Erroneous input data will lead to erroneous results even if the right formula is used.

5. Citizens has provided to the Company a copy of the confidentiality agreement used by Citizens and other utilities in the past for Citizens' consultants regarding non-disclosure agreements. Citizens intend for our consultants to utilize this information to

evaluate the Company's request in this rate case and they are willing to sign a non-disclosure agreement. Even if such this type of information is subject to a confidentiality, an objection due to confidentiality is not a reason to fail to produce.

Moreover, it is not overly burdensome for the Company's consultant to produce a CD copy of the Microsoft Excel with the embedded formulas in the worksheets. The number of requests at issue is 10 and likely can be provided in one CD. Since the Company's consultant resides out-of-state, it would be most cost effective for the Company to produce the paper and electronic version at the Office of the Public Counsel.

6. Citizens have attempted to resolve the dispute over these discovery requests and have reached an impasse.

WHEREFORE, the Citizens hereby request that the Commission grant its Motion to Compel.

Respectfully Submitted,

Charlie Beck  
Interim Public Counsel



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Attorneys for the Citizens  
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**DOCKET NO. 070304-EI**


**CERTIFICATE OF SERVICE**

**I, HEREBY CERTIFY** that a true and correct copy of the Office of Public Counsel Motion to Compel had been furnished by electronic mail and U.S. Mail on this 9<sup>th</sup> day of November, 2007, to the following:

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