

Ruth Nettles

From: Ann Bassett [abassett@lawfla.com]
Sent: Tuesday, January 08, 2008 4:26 PM
To: Filings@psc.state.fl.us
Subject: Docket 070304-EI
Attachments: 2008-01-08, 070304, FPUC's Request for Protective Order, late filed depo exhibits.pdf

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The Docket No. is 070304-EI Petition of Florida Public Utilities Company for a Rate Increase
This is being filed on behalf of Florida Public Utilities Company

Total Number of Pages is 5

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

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January 8, 2008

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,

Norman H. Horton, Jr.

NHH/amb
Enclosure

cc: Ms. Cheryl M. Martin
Parties of Record

DOCUMENT NUMBER - DATE
00204 JAN -88
FPSC-COMMISSION CLERK

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

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

Docket No. 070304-EI
Date Filed: January 8, 2008

**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") as Late Filed Exhibits to depositions of FPUC witnesses.

1. During depositions of the panel of Cheryl Martin, Mehrdad Khojasteh and Jim Mesite on December 11, 2007 and of Mark Cutshaw and Don Myers on December 13, 2007, OPC requested late filed exhibits including Late-Filed Exhibit No. 14 of the Martin panel which was "Salary Adjustment Information" and Late-Filed Exhibit No. 1 of the Cutshaw panel which was "Salary Comparisons." The Company considers the information in these exhibits to be proprietary and confidential as defined in Section 366.093, Florida Statutes, and treats it as such.

2. Late-Filed Exhibit No. 1 is a comparison of possible salaries for a proposed position. The exhibit includes a comparison of another utility and maximums proposed for FPUC for several positions. The exhibit does not relate to current compensation, duties or responsibilities but to potential maximum salaries, the disclosure of which could impair the efforts of the Company to negotiate a salary. Such information is proprietary and confidential and exempt from disclosure pursuant to Section 366.093, Florida Statutes.

Late-Filed Exhibit No. 14 is also a salary comparison the same as or similar to a comparison provided in response to Document Request No. 28 for which a Request for Protective Order is pending. To the extent necessary, Late-Filed Exhibit No. 14 should be included in that request.

3. 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 Temporary Protective Order exempting the identified information from public disclosure.

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,

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NORMAN H. HORTON, JR., ESQ.

Attorneys for Florida Public Utilities Company

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that true and correct copies of the foregoing have been served by Hand Delivery (*) and/or U. S. Mail this 8th day of January, 2008 upon the following:

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