

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for increase in rates by Florida Power & Light Company.

DOCKET NO. 080677-EI

In re: 2009 depreciation and dismantlement study by Florida Power & Light Company.

DOCKET NO. 090130-EI

ORDER NO. PSC-09-0417-PCO-EI

ISSUED: June 12, 2009

ORDER GRANTING FLORIDA POWER & LIGHT COMPANY'S MOTION FOR TEMPORARY PROTECTIVE ORDER FILED IN DOCKET NO. 080677-EI

On May 20, 2009, pursuant to Section 366.093, Florida Statutes (F.S.), and Rule 25-22.006(6)(c), Florida Administrative Code (F.A.C.), Florida Power & Light Company (FPL) filed a Motion for Temporary Protective Order to exempt from Section 119.07(1), F.S., certain confidential information included in FPL's responses to the Office of Public Counsel's (OPC) Fourth Set of Interrogatories No. 229; OPC's Fifth Request for Production of Documents Nos. 159, 161, and 169; OPC's Sixth Set of Interrogatories Nos. 298 and 299; and OPC's Seventh Request for Production of Documents Nos. 200, 202, 203, 209, 211, 214, 220, and 224. This request was filed in Docket No. 080677-EI. FPL states that it has been authorized by counsel for OPC to represent that OPC does not object to the granting of this motion. No other party filed a response to FPL's motion, and the time for doing so has expired.

Motion for Temporary Protective Order

FPL contends that its responses to OPC's aforementioned discovery requests include, but are not limited to, the following: (i) security measures, systems, or procedures (exempt from the Public Records Act pursuant to Section 366.093(3)(c), F.S.); (ii) information concerning bids or other contractual data, the disclosure of which would impair the efforts of FPL to contract for goods or services on favorable terms (exempt from the Public Records Act pursuant to Section 366.093(3)(d), F.S.); (iii) information related to competitive interests, the disclosure of which could harm the competitive business of the provider of the information (exempt from the Public Records Act pursuant to Section 366.093(3)(e), F.S.); (iv) employee personnel information unrelated to compensation, duties, qualifications or responsibilities (exempt from the Public Records Act pursuant to Section 366.093(3)(f), F.S.); and (v) customer-specific account information. It is FPL's policy not to disclose customer-specific information, except as required by law, to entities or persons other than the customer absent the customer's consent. FPL's policy is premised upon customers' right to privacy and the potential that the disclosure of customer-specific information may harm some customers' competitive interests (exempt from the Public Records Act pursuant to Section 366.093(3)(e), F.S.).

DOCUMENT NUMBER-DATE

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FPSC-COMMISSION CLERK

Analysis & Ruling

Rule 25-22.006(6), F.A.C., codifies the Commission's policy regarding the protection of confidential information from public disclosure during the discovery process in a manner that is not overly burdensome to both parties. Rule 25-22.006(6)(c), F.A.C., in pertinent part, states:


When a utility or other person agrees to allow Public Counsel to inspect or take possession of utility information for the purpose of determining what information is to be used in a proceeding before the Commission, the utility may request a temporary protective order exempting the information from Section 119.07(1), F.S. 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.

Upon consideration, FPL's Motion for Temporary Protective Order is granted. FPL has made sufficient assertions that the material should be protected from disclosure pursuant to Rule 25-22.006(6)(c), F.A.C. while OPC reviews the information to determine what information will be used in this proceeding. If the information is used in this proceeding, FPL shall file a specific request for a protective order pursuant to Rule 25-22.006(6)(a), F.A.C.

Based on the foregoing, it is

ORDERED by Commissioner Katrina J. McMurrian, as Prehearing Officer, that Florida Power & Light Company's Motion for Temporary Protective Order is granted, pursuant to the terms and conditions set forth in this Order.

By ORDER of Commissioner Katrina J. McMurrian, as Prehearing Officer, this 12th day of June, 2009.


KATRINA J. McMURRIAN
Commissioner and Prehearing Officer

(S E A L)

SMC

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

Mediation may be available on a case-by-case basis. If mediation is conducted, it does not affect a substantially interested person's right to a hearing.

Any party adversely affected by this order, which is preliminary, procedural or intermediate in nature, may request: (1) reconsideration within 10 days pursuant to Rule 25-22.0376, Florida Administrative Code; or (2) judicial review by the Florida Supreme Court, in the case of an electric, gas or telephone utility, or the First District Court of Appeal, in the case of a water or wastewater utility. A motion for reconsideration shall be filed with the Office of Commission Clerk, in the form prescribed by Rule 25-22.0376, Florida Administrative Code. Judicial review of a preliminary, procedural or intermediate ruling or order is available if review of the final action will not provide an adequate remedy. Such review may be requested from the appropriate court, as described above, pursuant to Rule 9.100, Florida Rules of Appellate Procedure.