

**Marguerite McLean**

080366-GU

**From:** Ann Bassett [abassett@lawfla.com]  
**Sent:** Thursday, August 13, 2009 8:57 AM  
**To:** Filings@psc.state.fl.us  
**Subject:** Docket No. 080366-GU  
**Attachments:** 2009-08-13, 080366, FPUC's Request for Portective Order and Temp Protective Order.pdf

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The Docket No. is 080366-GU

Petition of Florida Public Utilities Company for an Increase in Rates Charged to Natural Gas Customers

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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8/13/2009

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for rate increase by )  
Florida Public Utilities Company's )  
Gas Division )  
\_\_\_\_\_ )

Docket No. 080366-GU  
Date Filed: August 13, 2009

**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 Third Set of Interrogatories and Third Request for Production of Documents and as grounds states:

1. On July 14, 2009, the OPC served their Third Set of Interrogatories and Third Request for Production of Documents on FPUC wherein the Company was requested to respond to a number of interrogatories and 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 subject to confidential treatment.

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

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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.

3. The specific documents at issue are identified on Attachment A hereto and pursuant to Rule 25-22.006(6)(c), Florida Administrative Code, the Company is making the requested documents available to the OPC subject to nondisclosure as described in that section. The Company would also make such documents available to Staff for 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

## ATTACHMENT "A"

### INTERROGATORIES

88. Interrogatory 88 seeks information as a follow-up to a prior response related to cost savings measures. In the response, the Company has provided a copy of financial statements for Florida Public Utilities Company and Flo-Gas Corp. as of March, 2009. The statements include information for the non-regulated propane operations which are considered to be proprietary and confidential. The non-regulated operations are subject to competition and are provided on a competitive basis and disclosure of the financial information would harm the competitive interest of the Company. Such information is exempt from disclosure pursuant to Section 366.093(3)(e), Florida Statutes.

94. Interrogatory 94 requests, in part, the hours and rates charged for tasks included in rate case expense. Much of the work associated with the rate case is performed by outside consultants who provide their services in competition with other providers. They treat their rates as confidential and disclosure of their rates would impair their competitive interest and harm their business. Such information is exempt from disclosure pursuant to Section 366.093(3)(e), Florida Statutes.

### PRODUCTION OF DOCUMENTS

31. *Production of Document Request 31 requests documents related to payroll. The document produced contains individual names and salary information. The Company does not object to providing salary information by position but does not publicly disclose employee names and salaries other than for those required to be disclosed as a publicly traded company. Disclosure of such information harms the competitive interests of the Company as it provides valuable information to other employers and reveals information which the employee treats as confidential.*

Without waiving this position, the Company acknowledges the Commission has directed disclosure of such information and has pending before it an issue directly relating to this position, the disposition of which may affect the objection.

## CERTIFICATE OF SERVICE

I HEREBY CERTIFY that true and correct copies of the foregoing have been served by Hand Delivery this 13<sup>th</sup> day of August, 2009 upon the following:

Ralph Jaeger, Esq.  
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