

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Fuel and Purchased Power  
Cost Recovery Clause with  
Generating Performance Incentive  
Factor

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DOCKET NO. 150001-EI

FILED: October 23, 2015

**CITIZEN'S MOTION FOR RECONSIDERATION OF THE ORDER GRANTING FLORIDA  
PUBLIC UTILITIES COMPANY'S REQUEST FOR CONFIDENTIAL CLASSIFICATION AND  
MOTION FOR PROTECTIVE ORDER (DOCUMENT NO. 06240-15)**

The Citizens of the State of Florida (Citizens) hereby file their Citizen's Motion For Reconsideration Of The Order Granting Florida Public Utilities Company's Request For Confidential Classification And Motion For Protective Order (Document No. 06240-15), and as grounds therefore state the following:

1. On October 14, 2015, the Commission granted Florida Public Utilities Company's (FPUC) Request for Confidential Classification and Motion for Protective Order (Document No. 06240-15) in Order No. PSC-15-0461-CFO-EI (the "Order"). Pursuant to Rule 25-22.0376, Florida Administrative Code, a motion for reconsideration can be sought within 10 days of the issuance of the order. This Motion for Reconsideration has been filed timely.

2. The Public Records statute states that "[i]t is the policy of this state that all state, county, and municipal records are open for personal inspection and copying by any person. Providing access to public records is a duty of each agency." See, Section 119.01, Florida Statutes. However, Section 119.01 (d), Florida Statutes, recognizes that there are public record exemptions. Section 366.093, Florida Statutes, sets forth the specific exemptions for certain utility information held by a state agency to be kept confidential rather than the standard policy that all records held by a state agency are open to the public.

3. The Order was granted based on FPUC's claim that information contained in its request was proprietary confidential business information pursuant to Section 366.093, Florida Statutes, based on the following statutory reasons:

(d) Information concerning bids or other contractual data, the disclosure of which would impair the efforts of the public utility or its affiliates to contract for goods or services on favorable terms.

(e) Information relating to competitive interests, the disclosure of which would impair the competitive business of the provider of the information.

4. FPUC's Request for Confidential Classification and Motion for Protective Order (Request) covered FPUC's Responses to Staff's Second Set of Interrogatory Nos. 2(a), 2(b), 7, 8(b), and 9(c). The confidential request was for the following information:

a. Interrogatory 2(a) – the vendor for “contracted consultants”, and estimated amount(s) for the contracted “fuel-related goods or services” with description for 2016.

b. Interrogatory 2(b) – the vendor for “legal services”, and estimated amount(s) for the contracted “fuel-related goods or services” with description for 2016.

c. Interrogatory 7 – a breakdown of all non-fuel costs, for legal fees, consulting fees, and administrative costs, included in the 2016 fuel factors.

d. Interrogatory 8(b) – a detailed breakdown of this amount (the \$174,035 in actual/estimated expenses classified as “Special Costs”). The response included vendor's identification, amounts and description of work.

e. Interrogatory 9(c) – a detailed breakdown of the year to date (January-July 2015) expense of \$161,138 related to “Special Meetings-Fuel Market Issues”). The response included vendor’s identification, amounts and description of work.

5. Based on the discovery requests, the Company’s responses were broken out by vendor (non-confidential), general description of work (non-confidential) and total dollar amount for the timeframe requested (which was requested to be held confidential).

6. Citizens submit that the information contained in the Company’s discovery responses (i.e., the name of the vendor, the description of work, and the total amount for the requested timeframe) do not reveal or lead to the disclosure of the terms and conditions of these contracts such that FPUC’s ability to contract for these types of goods and services on favorable terms would be impaired. These total dollar amounts do not disclose any contractual data such as hourly rates or number of hours charged that could possibly harm either the vendor, the Company or its customers.

7. Further, the disclosure of the annual costs are similar to amounts incurred as rate case expense which are not confidential in nature. In general, the actual contracts are considered confidential; however, the actual or estimated amounts spent are not confidential.

8. Moreover, these total dollar amounts do not disclose any information regarding bids for these services.

9. Thus, the total amounts incurred should in no way be considered competitively sensitive information which would impair the Company's ability to effectively negotiate for goods and services, as well as impair the ability to bring critical projects to fruition. In addition, OPC submits that confidential treatment of these amounts is improper because it impairs the full public

disclosure of the dollar impact of the non-fuel related costs that the Company wishes to include as fuel related costs to be recovered through the fuel cost recovery clause.

10. The OPC submits that the Commission erred in relying on FPUC's allegations and overlooked or misapprehended the nature of the information and the consequences of public disclosure. For this reason, the OPC seeks reconsideration of the Order.

WHEREFORE, Citizens request that the Commission reconsider its Order Granting Florida Public Utilities Company's Request for Confidential Classification and Motion for Protective Order for Document No. 06240-15, and declassify this document. Specifically, Citizens request that the total dollar amounts previously identified as confidential as contained in the Company's responses to Staff's Second Set of Interrogatory Nos. 2(a), 2(b), 7, 8(b), and 9(c) be made public.

Respectfully submitted,

J.R. Kelly  
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**CERTIFICATE OF SERVICE**

**150001-EI**

**I HEREBY CERTIFY** that a true and correct copy of the foregoing has been furnished by electronic mail on this 23<sup>rd</sup> day of October, 2015, to the following:

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