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October 30, 2015

E-PORTAL

Ms. Carlotta Stauffer, Clerk
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

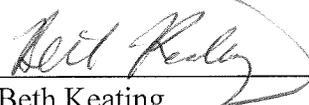
**Re: Docket No. 150001-EI: Fuel and Purchased Power Cost Recovery Clause with
Generating Performance Incentive Factor**

Dear Ms. Stauffer:

Attached for filing, please find Florida Public Utilities Company's Response in Opposition to the Citizens' October 23, 2015 Motion for Reconsideration of Order No. PSC-15-0461-CFO-EI.

Thank you for your assistance with this filing. As always, please don't hesitate to let me know if you have any questions whatsoever.

Sincerely,



Beth Keating
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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Fuel and purchased power cost recovery
clause with generating performance incentive
factor.

DOCKET NO. 150001-EI

DATED: October 30, 2015

FLORIDA PUBLIC UTILITIES COMPANY'S RESPONSE IN OPPOSITION TO CITIZENS' MOTION FOR RECONSIDERATION OF ORDER NO. PSC-15-0461-CFO-EI

Florida Public Utilities Company ("FPUC" or "Company"), by and through its undersigned counsel, hereby submits its Response in Opposition to Citizens' Motion for Reconsideration of Commission Order No. PSC-15-0461-CFO-EI, which was filed on October 23, 2015. The Order granted confidential classification for portions of FPUC's Responses to Commission Staff's Second Set of Interrogatories Nos. 2(a), 2(b), 7, 8(b), and 9(c) (Document No. 06240-15). By this Response, FPUC asks that the Citizens' Motion be denied. In support of this Response, FPUC states that:

1. As the Commission has recognized time and again, the appropriate standard of review in a motion for reconsideration is whether the motion identifies a point of fact or law which was overlooked or which the Prehearing Officer failed to consider in rendering his Final Order. Stewart Bonded Warehouse, Inc. v. Bevis, 294 So. 2d 315 (Fla. 1974); Diamond Cab Co. v. King, 146 So. 2d 889 (Fla. 1962); and Pingree v. Quaintance, 394 So. 2d 161 (Fla. 1st DCA 1981). Furthermore, a motion for reconsideration should not be granted "based upon an arbitrary feeling that a mistake may have been made, but should be based upon specific factual matters set forth in

the record and susceptible to review."¹ Applying the foregoing standard, Citizens' Motion must be denied, because it fails to identify any mistake of fact or law in the Prehearing Officer's decision, or anything that was overlooked in rendering the decision. Instead, Citizens simply disagree with the Prehearing Officer's conclusions, which is not sufficient to meet the high standard required for reconsideration.

2. Citizens' arguments can be boiled down to two points: (1) the total dollar amounts for which confidential classification was sought – and granted – do not disclose contractual data such as hourly rates or number of hours charged that “. . . could possibly harm either the vendor, the Company, or its customers”; and (2) the disclosure of annual costs are similar to amounts incurred as rate case expense which are not confidential in nature.² Thus, Citizens contend that the amounts in question are in no way competitively sensitive, should not have been afforded confidential classification, and that the Prehearing Officer erred by “relying upon FPUC's allegations.” Citizens further contend that the Prehearing Officer either did not consider, or did not understand fully, the nature of the information in question and the consequences of public disclosure.³
3. The Citizens' arguments do not demonstrate a mistake of fact or law on the part of the Prehearing Officer. With regard to the Citizens' suggestion that the total dollar amounts do not disclose contractual data, the Citizens have made assumptions about the structure of all of the contracts in question and from that, conclude that the

¹ *Stewart Bonded Warehouse, Inc. v. Bevis*, 294 So. 2d at 317. See, e.g. Order No. PSC-13-0180-CO-EI, issued April 29, 2013, in Docket No. 120192-EI; citing Order No. PSC-11-0222-FOF-TP, issued May 16, 2011, in Docket No. 090538-TP.

² Motion at page 3, paragraph 6. Notably, these same arguments were recycled in Citizen's Objection to Confidential Classification, also filed on October 23, 2015. FPUC likewise disagrees with those assertions on the same basis set forth in paragraph 3 of this Response.

³ Motion at page 4, paragraph 10.

annualized amounts cannot be used to derive specific contract terms. There is no basis for that assumption. Moreover, contrary to their assertions, the annualized amount is reflective of the scope and terms of the contracts, the disclosure of which has heretofore been protected from public disclosure.

4. As for the contention that these amounts are similar to rate case expense, this argument does not identify any mistake of fact or law whatsoever. This is not a rate case, and the legal and consulting fees in question were not incurred in the development of a rate case. To the contrary, the fees are associated with projects that the Company has undertaken in an effort to obtain fuel and purchased power savings for its customers. The comparison the Citizens seek to make is truly an “apples to oranges” comparison. To be clear, the costs are not tied to the regular development of fuel filings for purposes of setting a fuel factor, nor are they tied in any way to a base rate increase. The comparison simply cannot be made.
5. The Citizens have failed to demonstrate that the information granted confidential classification is not “proprietary confidential business information” as set forth in Section 366.093(3), Florida Statutes, which provides:

- (3) Proprietary confidential business information means information, regardless of form or characteristics, which is owned or controlled by the person or company, is intended to be and is treated by the person or company as private in that the disclosure of the information would cause harm to the ratepayers or the person’s or company’s business operations, and has not been disclosed unless disclosed pursuant to a statutory provision, an order of a court or administrative body, or private agreement that provides that the information will not be released to the public. Proprietary confidential business information includes, but is not limited to:
 - (a) Trade secrets.
 - (b) Internal auditing controls and reports of internal auditors.
 - (c) Security measures, systems, or procedures.

(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.

(f) Employee personnel information unrelated to compensation, duties, qualifications, or responsibilities.

4. In sum, Order No. PSC-15-0504-CFO-EI correctly preserves the confidential nature of the information in question, consistent with Section 366.093(3)(d), Florida Statutes. Release of the referenced information as a public record would harm FPUC's business operations and ratepayers by impairing the Company's ability to effectively negotiate for goods and services, as well as impair the Company's ability to bring critical projects to fruition. The Citizens have failed to meet the high standard for reconsideration. As such, FPUC asks that the Motion for Reconsideration be denied.

WHEREFORE, FPUC respectfully requests that the Citizens' Motion for Reconsideration of Order No. PSC-15-0461-CFO-EI be denied.

RESPECTFULLY SUBMITTED this 30th day of October, 2015.



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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by Electronic Mail to the following parties of record this 30th day of October, 2015:

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