

MESSER CAPARELLO & SELF, P.A.

Attorneys At Law
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April 10, 2009

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, FL 32399-0850

Re: Docket No. 080366-GU

Dear Ms. Cole:

Enclosed for filing on behalf of Florida Public Utilities Company in this docket 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.

Sincerely,

A handwritten signature in black ink, appearing to read 'Norman H. Horton, Jr.'.

Norman H. Horton, Jr.

NHH/amb

Enclosure

cc: Ms. Cheryl Martin
Parties of Record

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for rate increase by)	
Florida Public Utilities Company's)	Docket No. 080366-GU
Gas Division)	Date Filed: April 10, 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 First Request for Production of Documents and as grounds states:

1. On March 10, 2009, the OPC served their First Request for Production of Documents on FPUC wherein the Company was requested to 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.
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 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

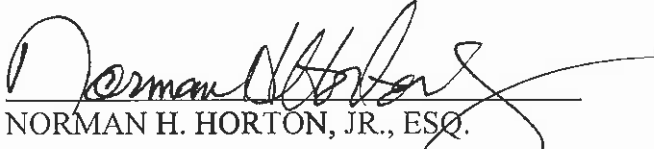
Temporary Protective Order exempting the identified information from public disclosure.

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,

MESSER, CAPARELLO & SELF, P. A.
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(850) 222-0720


NORMAN H. HORTON, JR., ESQ.

Attorneys for Florida Public Utilities Company

ATTACHMENT "A"

Request No. 1. Please provide each company monthly and year to date operations report that provides all performance results and performance goals, including reports of variances and explanations of variances, for the state of Florida operations as a whole, regarding all performance goals and measurements including, but not limited to service installation, maintenance and repair, call center and customer service departments. This request seeks all such documents created on or after January 1, 2005, for years 2005, 2006, 2007, 2008, 2009 and 2010 in your possession, custody or control.

Reason: Exhibits 1.B-1 and 1.F25-74 contain information related to electric and non-regulated operations of the Company. The non-regulated operations are subject to competition and disclosure of this information would be harmful to the competitive operations of the Company.

Exhibit 1.B9 contains earnings related projections for both the regulated and non-regulated operations and disclosure would harm the company and its customers. As a public company, FPUC does not publish such information.

Request No. 2. Please provide copies of company documents relating to the company's approved and/or authorized Florida statewide full time and contract employee headcounts and budgeted overtime hours for the state of Florida operations as a whole and the departmental organizations responsible for installation, maintenance and repair, meter readers, call centers/customer service and headquarters/administration, were initially budgeted for years 2005, 2006, 2007, 2008, 2009 and 2010. This request seeks all such documents created on or after January 1, 2004, in your possession, custody or control.

Reason: Exhibit 2.2 is an organization chart containing a listing of all employees. The Company does not publish personnel information such as this.

Request No.3. Please provide a copy of company documents that list the total O&M budgeted and actual salary expense for installation, repair and maintenance employees, meter readers and business office/call center employees for years 2005, 2006, 2007, 2008, 2009 and 2010.

Reason: Exhibits 3.8 – 3.10 are copies of budgets for the Company which includes non-regulated, competitive operations. Disclosure of such information would reveal business plans of the Company and be of value to competitors. Such disclosure would be harmful to the Company and its customers.

Request No. 5. Please provide a copy of all Executive and higher management complaints received by the company from customers during year 2007, 2008 and 2009 to date, including all associated documents describing each such complaint and its resolution and any monthly, quarterly or annual summaries of such complaints.

Reason: Exhibit 5.1 contains documents relating to customer inquiries which contain customer specific information. The Company does not release or publish such information as to do so could be harmful to the individual customers.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that true and correct copies of the foregoing have been served by Hand Delivery this 10th day of April, 2009 upon the following:

Ralph Jaeger, Esq.
Office of General Counsel
Florida Public Service Commission
2540 Shumard Oak Blvd.
Tallahassee, FL 32399-0850

Patricia Christensen
Associate Public Counsel
Office of Public Counsel
c/o The Florida Legislature
111 West Madison St., Room 812
Tallahassee, FL 32399-1400


NORMAN H. HORTON, JR.