

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Nuclear cost recovery clause.

DOCKET NO. 100009-EI  
ORDER NO. PSC-10-0503-PCO-EI  
ISSUED: August 9, 2010

ORDER GRANTING FLORIDA POWER & LIGHT COMPANY'S MOTION FOR  
TEMPORARY PROTECTIVE ORDER

BY THE COMMISSION:

On July 28, 2010, 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 while the material is in the possession of the Office of Public Counsel (OPC). Section 366.093(2), F.S., directs that all records produced pursuant to a discovery request for which proprietary confidential status is requested shall be treated by any party subject to the public records law as confidential and exempt from the public records law, Section 119.07(1), F.S. 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)(a) F.A.C., in pertinent part, states:

In any formal proceeding before the Commission, any utility or other person may request a protective order protecting proprietary confidential business information from discovery. Upon a showing by a utility or other person and a finding by the Commission that the material is entitled to protection, the Commission shall enter a protective order limiting discovery in the manner provided for in Rule 1.280, Florida Rules of Civil Procedure.

In addition, Rule 25-22.006(6)(c), F.A.C., states that if a party allows OPC to inspect or take possession of utility information, then that "utility may request a temporary protective order exempting the information from section 119.07(1), F.S." The Rule further requires the utility to file a specific request for a protective order under paragraph (a) of the Rule if the information is to be used in the proceeding before the Commission.

FPL is seeking protection of certain information contained in the audit report entitled *Review of Florida Power & Light's Project Management Internal Controls for Nuclear Plant Upstate and Construction Projects*, attached to the joint testimony of Lynn Fisher and David Rich. FPL contends the confidential information includes, but is not limited to, information concerning bids or other contractual data, such as specific payment terms, the disclosure of which would violate nondisclosure terms of FPL's contracts with certain vendors and impair efforts of FPL to contract for goods or services on favorable terms. FPL claims it also includes information related to competitive interests, the disclosure of which could harm the competitive

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business of FPL or its vendors. FPL states included in the report is information related to internal auditing controls and reports of internal auditors and employee personnel information unrelated to compensation, duties, qualifications or responsibilities. FPL states that it has been authorized by counsel for OPC to represent that OPC does not object to the granting of this motion.

Upon consideration, FPL's Motion for Temporary Protective Order is granted on an interim basis, pending the final determination of FPL's request for confidential classification filed on July 14, 2010, for the documents listed in this Motion for Temporary Protective Order, which will be addressed at the evidentiary hearing on confidentiality scheduled for August 20, 2010, in this docket. FPL has asserted 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. Subsequently, on August 2, 2010, OPC filed an objection to FPL's request for confidential classification of the documents which are listed in this Motion for Temporary Protective Order. Accordingly, this Order shall not be construed as prejudging the merits of FPL's request for confidential classification of the documents listed in this motion. As stated, my ruling on FPL's request for confidential classification will occur after the evidentiary hearing on confidentiality. The ruling on the Temporary Protective Order shall only remain in effect until a decision on FPL's request for confidential classification of the documents which are basis for the Motion for Temporary Protective Order has been rendered.

Based on the foregoing, it is

ORDERED by Commissioner Nathan A. Skop, 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 Nathan A. Skop, as Prehearing Officer, this 9th day of August, 2010.



NATHAN A. SKOP  
Commissioner and Prehearing Officer

(SEAL)

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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.