

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Nuclear cost recovery clause.

DOCKET NO. 150009-EI
ORDER NO. PSC-15-0558-CFO-EI
ISSUED: December 7, 2015

ORDER GRANTING FLORIDA POWER & LIGHT COMPANY'S MOTION FOR
TEMPORARY PROTECTIVE ORDER (DOCUMENT NO. 03620-15)

On June 12, 2015, 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 (Document No. 03620-15) to exempt from Section 119.07(1), F.S., certain confidential information while the material is in the possession of the City of Miami (Miami). 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 Florida Public Service Commission's (Commission) 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)(b), F.A.C., states that Commission protective orders "shall exempt proprietary confidential business information from Section 199.07(1), F.S. [. . .] whether the information is in the possession of an entity, individual, or state agency, including the Office of Public Counsel." 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 documents produced in response to Miami's First Request for Production of Documents No. 5, and Staff's First Request for Production of Documents Nos. 1, 3, and 4 (discovery responses). FPL asserts that the discovery responses include information related to competitive interests, the disclosure of which could harm the competitive business for the provider of the information. Specifically, FPL contends that the discovery responses contain proprietary economic modeling and detailed planning data that other relevant market participants could act on detrimentally impacting FPL's customers and business interests. FPL argues that the discovery responses are entitled to protection pursuant to Section 366.093(3)(e), F.S.

FPL affirms that it has been authorized by counsel for OPC to represent that OPC does not object to the granting of this motion, but OPC does retain its right to contest confidentiality if warranted.

Upon consideration, FPL's Motion for Temporary Protective Order is granted. FPL has asserted that the material should be protected from disclosure pursuant to Rule 25-22.006(6)(c), F.A.C. Accordingly, this information will be protected from disclosure pursuant to Rule 25-22.006(6), F.A.C.

Based on the foregoing, it is hereby

ORDERED by Chairman Art Graham, 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 Chairman Art Graham, as Prehearing Officer, this 7th day of December, 2015.


ART GRAHAM
Chairman and Prehearing Officer
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Copies furnished: A copy of this document is provided to the parties of record at the time of issuance and, if applicable, interested persons.

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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.