

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for rate increase by Florida Power & Light Company.

DOCKET NO. 160021-EI

In re: Petition for approval of 2016-2018 storm hardening plan, by Florida Power & Light Company.

DOCKET NO. 160061-EI

In re: 2016 depreciation and dismantlement study by Florida Power & Light Company.

DOCKET NO. 160062-EI

In re: Petition for limited proceeding to modify and continue incentive mechanism, by Florida Power & Light Company.

DOCKET NO. 160088-EI
ORDER NO. PSC-16-0272-CFO-EI
ISSUED: July 15, 2016

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

On May 23, 2016, pursuant to Section 366.093(3), Florida Statutes (F.S.), and Rule 25-22.006, Florida Administrative Code (F.A.C.), Florida Power & Light Company (FPL) filed a Motion for Temporary Protective Order for its responses to the Office of Public Counsel's (OPC) First Request for Production of Documents No. 1. FPL's response to OPC's First Request for Production of Documents No. 1 consists of a copy of each Asset Management Agreement that FPL has entered into with a third party for assignment of transportation and/or storage rights since the initial Incentive Mechanism commenced. On May 23, 2016, FPL also requested that a temporary protective order be issued for FPL's response to OPC's Eighth Request for Production of Documents Nos. 102 and 115. OPC's Eighth Request for Production of Documents No. 102 consists of copies of the most recent load research information in the FPL's possession used to determine the appropriate hourly load for each customer class. OPC's Eighth Request for Production of Documents No. 115 consists of information related to economic development projects from 2005 to 2015 and 2016 to date.

On May 31, 2016, FPL requested that a temporary protective order be issued for FPL's response to OPC's Eleventh Set of Interrogatories Nos. 294-295 and Eleventh Request for Production of Documents No. 127. FPL's response to OPC's Interrogatory No. 294 consists of a breakdown of the \$129.4 million in costs incurred by FPL and deferred to a balance sheet account and FPL's response to OPC's Interrogatory No. 295 consists of information regarding the gains by transaction year for various transactions included in the Incentive Mechanism as proposed. FPL's response to OPC's Eleventh Request for Production of Documents No. 127 consists of copies of all internal reports, presentations, briefings and other written documentation made to FPL's and NextEra's Board of Directors regarding the proposed Incentive Mechanism.

On June 6, 2016, FPL requested that a temporary protective order be issued for FPL's responses to OPC's Twelfth Set of Interrogatories Nos. 300-304. FPL's responses to OPC's Interrogatories Nos. 300 to 304 consist of the details of natural gas storage, natural gas sales, natural gas transportation sales, and electric transmission capacity sales. On June 7, 2016, FPL requested that a temporary protective order be issued for FPL's supplemental response to OPC's First Request for Production of Documents No. 34 which consists of credit agency correspondence between FPL and its parent company over the past four years. On June 15, 2016, FPL requested that a temporary protective order be issued for FPL's response to Commission staff's Seventeenth Set of Interrogatories No. 301 which consists of the company's Asset Optimization activities between 2013 through 2015. On June 16, 2016, FPL requested that a temporary protective order be issued for FPL's supplemental response to OPC's Tenth Request for Production of Documents No. 124 which consists of all work papers and Excel files associated with FPL's Notices of Identified Adjustments filed in the rate case, Docket No. 160021-EI. On June 22, 2016, FPL requested that a temporary protective order be issued for FPL's supplemental response to OPC's First Request for Production of Documents No. 2 which consists of a summary listing of all variance reports generated for use by FPL for O&M, capital, total company and other.

Motions for Temporary Protective Orders

FPL seeks protection of these documents as provided in Section 366.093(3), F.S., and Rule 25-22.006(6)(c), F.A.C., while the material is in the possession of 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."

Upon consideration of FPL's assertions of the confidential nature of the information contained in its responses to OPC's Request for Production of Documents Nos. 1, 102, 115, and 127, and FPL's supplemental responses to OPC's Request for Production of Documents Nos. 2, 34, and 124, FPL's Motions for Temporary Protective Orders are hereby granted. Likewise, FPL's assertions of the confidential nature of the information contained in its response to

Commission staff's Interrogatory No. 301, are sufficient to grant its Motion for Protective Order for that data as well. As a result, all of this information shall be protected from disclosure pursuant to Rule 25-22.006(6)(c), F.A.C.

Based on the foregoing, it is hereby

ORDERED by Commissioner Lisa Polak Edgar, as Prehearing Officer, that Florida Power & Light Company's Motions for Temporary Protective Orders regarding its responses to OPC's Request for Production of Documents Nos. 1, 102, 115, and 127; its supplemental responses to OPC's Request for Production of Documents Nos. 2, 34, and 124; and its responses to Commission staff's Interrogatory No. 301, are granted.

By ORDER of Commissioner Lisa Polak Edgar, as Prehearing Officer, this 15th day of July, 2016.



LISA POLAK EDGAR
Commissioner 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

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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.