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August 15, 2019

VIA HAND DELIVERY

Mr. Adam Teitzman
Commission Clerk
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

RECEIVED-FPSC
2019 AUG 15 PM 4:56
COMMISSION
CLERK

Re: Docket No. 20190002-EG – Energy Conservation Cost Recovery Clause

Dear Mr. Teitzman:

Enclosed, please find the original and 7 copies of Florida Public Utilities Company's Request for Confidential Classification and Motion for Protective Order regarding portions of its responses to the Office of Public Counsel's First Requests for Production to the Company. Also, enclosed is a DVD containing the Excel file that includes the confidential information, which is highlighted. Also enclosed is a separate DVD containing the same spreadsheet in Acrobat format, wherein the confidential information has been redacted.

Should you have any questions whatsoever, please do not hesitate to contact me. Thank you for your assistance in this matter.

Sincerely,



Beth Keating
Gunster, Yoakley & Stewart, P.A.
215 South Monroe St., Suite 618
Tallahassee, FL 32301
(850) 521-1706

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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Energy Conservation)
Cost Recovery Clause)
_____)

Docket No. 20190002-EG
Filed: August 15, 2019

FLORIDA PUBLIC UTILITIES COMPANY'S
REQUEST FOR CONFIDENTIAL CLASSIFICATION AND MOTION FOR TEMPORARY
PROTECTIVE ORDER

Florida Public Utilities Company ("FPUC" or "the Company"), pursuant to Section 366.093, Florida Statutes, and Rule 25-22.006, Florida Administrative Code, hereby submits this Request for Confidential Classification and Motion for Protective Order regarding certain material contained in its responses to the Office of Public Counsel's First Requests for Production of Documents (Nos. 1-14). Specifically, FPUC seeks confidential treatment of information contained in its responses to Document Requests Nos. 4 and 9, which are both contained in the Excel spreadsheet titled "Responses to OPC POD's-2018," and Bates labeled FPUC 02-0001 through 02-0482. In support of this Request, FPUC states as follows:

1. Sections of the referenced document contain information regarding payments made pursuant to contracts with FPUC's vendors. FPUC and its vendors treat this information as highly confidential, proprietary business information, which, if disclosed, could harm the Company's business interests, as well as those of its vendors.
2. Subsection 366.093(1), Florida Statutes, provides that upon request, records received by the Commission which are "found by the commission to be proprietary confidential business information shall be kept confidential and shall be exempt from s. 119.07(1)."
3. "Proprietary confidential business information" is defined as meaning "information, regardless of form or characteristics, which is owned or controlled by the ... company, is intended to be and is treated by the ... company as private in that the disclosure of the information would cause harm to the ratepayers or the 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." Section 366.093(3), Florida Statutes.

4. Proprietary confidential business information includes, but is not limited to, information concerning:
 - (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.

Section 366.093(3), Florida Statutes.

5. The confidential portions of the document titled "Responses to OPC POD's-2018" fall within these statutory definitions, and therefore constitute proprietary confidential business information entitled to protection under Section 366.093(d) Florida Statutes, and Rule 25-22.006, Florida Administrative Code. The information, which has been treated by FPUC as highly confidential and has not been publicly disclosed, constitutes information about payments made by FPUC pursuant to contract, which in accordance with those contracts, the parties treat as confidential. This information, if disclosed, would impair the efforts of FPUC to compete for services, as well as to contract for goods and services with other vendors on reasonable terms. The information therein is therefore proprietary confidential business information and is entitled to continued and ongoing protection under Section 366.093(d), Florida Statutes, and Rule 25-22.006, Florida Administrative Code.


6. For the same reasons that FPUC seeks confidential classification for the identified information, FPUC also requests that the Commission enter a Protective Order, pursuant to Rule 25-22.006(6)(c), protecting this information from public disclosure to the extent it is provided the Office of Public Counsel.
7. Specifically, FPUC seeks confidential treatment of the highlighted amounts included in the Excel spreadsheet identified as “Responses to OPC POD’s-2018” at sheet 1, “Raw Data”, Column K, lines 10, 46, 63, 93, 158, 161, 162, 356, 357, 388, 443, 473, 474, 487, 488, 581, 582, 591, 592, 594, 672-674, 681-683, 695-697, 707-708, 790-792, 818-820, 1000-1002, 1018, 1019, 1098, 1100, 1121, 1122, 1157, 1158, 1202, 1205, 1210, 1211, 1243, and 1244, as well as on Sheet 4, “FEECA Goalsetting”, all lines in Column K, and Sheet 9, “Outside Services – Common”, lines 1, 3, 5, 6, 7, 8, 10-13, 15, 17, 18, 19, 21-25, 27-34, 36-44, 46, 47, 50-53, 55-57, 63-65, 68, 69, 71, 72, and 75-84. The identified amounts pertain to contracts with third parties for assistance with the 2020 FEECA Goalsetting process and related conservation plan-related issues.
8. The information at issue falls squarely under 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 such, FPUC requests that the Commission grant this information confidential treatment and determine it to be exempt from Section 119.07, Florida Statutes. Included with this Request is a highlighted copy of the referenced portions of the spreadsheet “Responses to OPC POD’s-2018” on a DVD marked “Confidential”. Given that the file is voluminous and not susceptible to print format, two redacted copies of the referenced information are included on a separate DVD.

9. FPUC asks that confidential classification be granted for a period of at least 18 months. Should the Commission find that it needs to retain the information, FPUC respectfully requests that the confidential information be returned to the Company.

WHEREFORE, FPUC respectfully requests that the highlighted information contained in its Response the Office of Public Counsel's First Requests for Production of Documents (Nos. 1-14) in the referenced docket be classified as "proprietary confidential business information," and thus, exempt from Section 119.07, Florida Statutes, and that the Commission enter a protective order protecting the same to the extent it is provided to the Office of Public Counsel.

RESPECTFULLY SUBMITTED this 15th day of August, 2019.

By: _____



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(850) 521-1706

Attorneys for Florida Public Utilities Company

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by Electronic Mail (redacted only) to the following parties of record this 15th day of August, 2019:

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