

Writer's E-Mail Address: bkeating@gunster.com

November 5, 2019

VIA HAND DELIVERY

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

REDACTED

RECEIVED-FPSC
2019 NOV -5 PM 4:13
COMMISSION CLERK

Re: Docket No. 20190156-EI - Petition for a limited proceeding to recover incremental storm restoration costs, capital costs, revenue reduction for permanently lost customers, and regulatory assets related to Hurricane Michael, by Florida Public Utilities Company.

Dear Mr. Teitzman:

Attached for filing, please find the original and 7 copies of Florida Public Utilities Company's Request for Confidential Classification and Motion for Protective Order of certain information contained in its response to OPC's Fourth Set of Interrogatories to the Company. Also included are one highlighted and two redacted versions of the referenced confidential document in accordance with Rule 25-22.006, F.A.C.

Thank you for your assistance with this filing. As always, please don't hesitate to let me know if you have any questions or concerns.

Sincerely,



Beth Keating
Gunster, Yoakley & Stewart, P.A.
215 South Monroe St., Suite 601
Tallahassee, FL 32301
(850) 521-1706

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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for a limited proceeding to recover incremental storm restoration costs, capital costs, revenue reduction for permanently lost customers, and regulatory assets related to Hurricane Michael, by Florida Public Utilities Company.) Docket No. 20190156-EI)
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) Filed: November 5, 2019
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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 Rules 25-22.006(4) and (6), Florida Administrative Code, hereby submits this Request for Confidential Classification and Motion for Temporary Protective Order regarding certain material contained in the attachment to its response to Interrogatory No. 95 of the Office of Public Counsel’s Fourth Set of Interrogatories (Nos. 67-95). In support of this Request, FPUC states as follows:

1. Portions of a referenced invoice contains information regarding rates and terms in contracts with one of FPUC’s vendors. FPUC and this vendor treat this information as highly confidential, proprietary business information in accordance with agreed upon contract terms. If this information is publicly disclosed, such disclosure could harm the Company’s business interests, as well as those of its vendor.
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 referenced document, which are found in the Rate and Extension columns of the Pike Electric Invoice number 243424, 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 the parties treat as confidential in accordance with the terms of those contracts. This information, if disclosed, would not only impair the efforts of FPUC to compete for services, but would potentially place the Company in breach of contract. Furthermore, such disclosure could impair the Company's ability to contract for goods and services with other vendors on reasonable terms in the future. 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 these reasons, FPUC requests that the Commission grant confidential classification for the referenced information.
7. To the extent this information is also provided to OPC in response to their discovery request, the Company also asks 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 being provided the Office of Public Counsel.
8. Rule 25-22.006(6)(c), Florida Administrative Code, provides in pertinent part, as follows, with respect to a utility allowing OPC to depose, inspect and/or take possession of the utility's information:
 - a. [T]he utility may request a temporary protective order exempting the information from Section 119.07(1), Florida Statutes. If the information is to be used in a proceeding before the Commission, then the utility must file a specific request for a protective order under paragraph (a) above. If the information is not to be used in a proceeding before the Commission, the Public Counsel shall return the information to the utility in accordance with the record retention requirements of the Department of State.
9. 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 Request for Confidential Classification and Motion for Protective Order

10. FPUC has been authorized by counsel for OPC to represent that OPC does not object to the granting of this motion but reserves the right to contest the confidentiality of the subject documents.

WHEREFORE, FPUC respectfully requests that the Commission grant the highlighted information described herein confidential classification and enter a protective order protecting the referenced information provided to OPC in response to Citizens' Fourth Set of Interrogatories (Nos. 67-95).

RESPECTFULLY SUBMITTED this 5th day of November, 2019.

By: _____




Beth Keating
Gunster, Yoakley & Stewart, P.A.
215 South Monroe St., Suite 601
Tallahassee, FL 32301
(850) 521-1706

Attorneys for Florida Public Utilities Company

CERTIFICATE OF SERVICE

I hereby certify that true and correct copies of the foregoing has been served by Electronic Mail this 5th day of November, 2019, upon the following:

Florida Public Utilities Company Mike Cassel 1750 S 14th Street, Suite 200 Fernandina Beach, FL 32034 mcassel@fpuc.com	Ashley Weisenfeld Rachael Dziechciarz Florida Public Service Commission 2540 Shumard Oak Boulevard Tallahassee, FL 32399 aweisenf@psc.state.fl.us rdziechc@psc.state.fl.us
	Office of Public Counsel J.R. Kelly/Patricia Christensen/Mireille Fall-Fry c/o The Florida Legislature 111 West Madison Street, Room 812 Tallahassee, FL 32399-1400 Kelly.jr@leg.state.fl.us christensen.patty@leg.state.fl.us fall-fry.mireille@leg.state.fl.us

By: 
Beth Keating
Gunster, Yoakley & Stewart, P.A.
215 South Monroe St., Suite 601
Tallahassee, FL 32301
(850) 521-1706



Pike Electric, LLC
 Dept #517, PO Box 1000
 Memphis Tennessee 38148
 Fax (336) 719-4595, Tel (336) 789-2171

INVOICE NO.	PAGE
243424	Page 1 of 1

FLORIDA PUBLIC UTILITIES
 CORPORATION
 2825 PENN AVENUE
 MARIANNA FL 32446
 ATTN: CLINT BROWN

INVOICE DATE	
11/06/2018	
FOREMAN	
Lambing Donald	
PIKE JOB NO:	
01930-801	

		FE18904697S1430	
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COMMENTS:

UNIT	NO. OF UNITS	Rate	EXTENSION
INSTALL			
N Man Hour OT	288.000		
N Man Hour ST	160.000		
TOTAL INSTALL			
TOTAL WORK ORDER			

PR #: 1076371
 Date Rcvd: 11-13-18
 Received By: [Signature]
 Scanned Date: 11-22-18
 Processed By: J. Roye

Invoice Total	\$54,368.32
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 Dept #517, PO Box 1000
 Memphis Tennessee 38148
 Fax (336) 719-4595, Tel (336) 789-2171

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COMMENTS:

UNIT	NO. OF UNITS	Rate	EXTENSION
INSTALL			
N Man Hour OT	288.000		
N Man Hour ST	160.000		
TOTAL INSTALL			
TOTAL WORK ORDER			

PR #: 676371
 Date Rcvd: 11-13-18
 Received By: JR
 Scanned Date: 11-21-18
 Processed By: J. Roye

Invoice Total	\$54,368.32
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