



ORIGINAL

JAMES A. MCGEE
ASSOCIATE GENERAL COUNSEL
PROGRESS ENERGY SERVICE COMPANY, LLC

December 12, 2003

Ms. Blanca S. Bayó, Director
Division of the Commission Clerk
and Administrative Services
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850

RECEIVED FPSC
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COMMISSION
CLERK

Re: Docket No. 031057-EI

Dear Ms. Bayó:

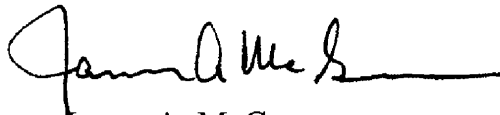
Enclosed for filing in the subject docket on behalf of Progress Energy Florida, Inc., formerly Florida Power Corporation, are an original and fifteen copies of its Motion for an Order Protecting Confidential Information Provided to the Office of Public Counsel.

Please acknowledge your receipt of the above filing on the enclosed copy of this letter and return to the undersigned. A 3½ inch diskette containing the above-referenced document in Word format is also enclosed. Thank you for your assistance in this matter.

RECEIVED & FILED


FPSC-BUREAU OF RECORDS

Very truly yours,


James A. McGee

JAM/scc
Enclosures

cc: Robert Vandiver, Esquire

- AUS _____
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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Review of Progress Energy
Florida, Inc.'s benchmark for
waterborne transportation transactions
with Progress Fuels.

Docket No. 031057-EI

Submitted for filing:
December 12, 2003

**Motion of Progress Energy Florida for an Order Protecting
Confidential Information Provided to the Office of Public Counsel**

Progress Energy Florida, Inc. (Progress Energy or the Company), pursuant to Section 366.093, F.S., and Rule 25-22.006(6), F.A.C., hereby moves the Florida Public Service Commission (the Commission), acting through its designated Prehearing Officer, for an order protecting certain confidential responses provided by Progress Energy to Staff discovery in Docket No. 030001-EI that have now been requested by the Office of Public Counsel (OPC). In support hereof, Progress Energy states as follows.

1. On November 19, 2003, Progress Energy filed its Request for Confidential Classification of certain highlighted information contained in its responses to Staff's Fifth Set of Interrogatories (Nos. 48 – 85) and Staff's Second Request for Production of Documents (Nos. 4 – 14) in Docket No. 030001-EI (the Responses), which is currently pending a ruling by the Prehearing Officer in that docket. The confidential Responses, which have been designated Document No. DN 10626-03 by the Clerk's Office, addressed the Company's waterborne

DOCUMENT NUMBER DATE

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transportation issues considered by the Commission at the November 2003 fuel adjustment hearing, including the remaining aspects of those issues that were spun-off to the above-captioned docket.

2. Subsequent to the establishment of this spin-off docket, OPC requested an unredacted copy of the confidential Responses. Progress Energy desires to honor OPC's request, provided that the confidential information contained in the Responses remains protected from disclosure while in the possession of OPC. Progress Energy believes such protection can be provided by subsection (6)(b) of the Commission's confidentiality rule, 25-22.006, which states:

The Commission's protective orders shall exempt proprietary confidential business information from section 119.07(1), F.S. While a request for a protective order is pending, the information asserted to be confidential shall also be exempt from section 119.07(1), F.S. Such exemption shall apply whether the information is in the possession of an entity, individual, or state agency, including the Office of Public Counsel.

However, because Progress Energy's pending Request is not actually styled as "a request for a protective order", the Company is concerned that a literal, hyper-technical reading of subsection (6)(b) could lead to a conclusion that the subsection's protection does not apply to OPC's possession of the Responses.

3. Accordingly, in an abundance of caution, Progress Energy requests an order affirming that while Progress Energy's November 19, 2003 Request for Confidential Classification is pending, and thereafter if the Request is granted, subsection (6)(b) of the Commission's confidentiality rule exempts the

information subject to the Request from the section 119.07(1), F.S., and that the exemption applies to this information when in the possession of OPC.

4. In the alternative, Progress Energy requests a temporary protective order be issued pursuant to subsection (6)(c) of the confidentiality rule with respect to the confidential information contained in the Responses. Subsection (6)(c) states as follows:

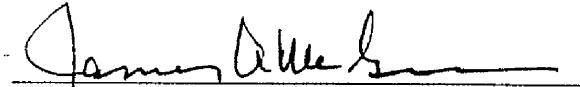
When a utility or other person agrees to allow Public Counsel to inspect or take possession of utility information for the purpose of determining what information is to be used in a proceeding before the Commission, the utility may request a temporary protective order exempting the information from section 119.07(1), F.S. 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, then Public Counsel shall return the information to the utility in accordance with the record retention requirements of the Department of State.

5. The undersigned has been authorized by counsel for OPC to represent that OPC does not object to the granting of this motion.

WHEREFORE, Progress Energy respectfully requests that the Commission, acting through its designated Prehearing Officer, grant this motion and enter an order affirming the applicability of Rule 25-22.006(6)(b), F.A.C., to the information subject to Progress Energy's pending Request for Confidential Classification when this information is in the possession of OPC or, in the

alternative, enter a temporary protective order pursuant to Rule 25-22.006(6)(c),
F.A.C., with respect to such information when in the possession of OPC.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "James A. McGee", is written over a horizontal line.

James A. McGee
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Attorney for
PROGRESS ENERGY FLORIDA, INC.