

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

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In Re: Nuclear Power Plant Cost Recovery)
Clause.)
_____)

Docket No. 100009-EI
Submitted for filing: April 7, 2010

**PROGRESS ENERGY FLORIDA, INC.'S SECOND
MOTION FOR TEMPORARY PROTECTIVE ORDER**

Progress Energy Florida, Inc. ("PEF" or the "Company"), by and through its undersigned counsel, hereby moves the Florida Public Service Commission (the "Commission"), through the Prehearing Officer, for entry of a Temporary Protective Order covering confidential documents and information sought in discovery by the Office of Public Counsel ("OPC"), pursuant to Section 366.093, Florida Statutes, and Rule 25-22.006(6)(c), Florida Administrative Code. As grounds therefore, PEF states as follows:

1. In OPC's Second Request for Production of Documents (Nos. 44-53), specifically numbers 44, 45, 46, 51 and 52, and OPC's Second Set of Interrogatories to Progress Energy Florida (Nos. 8-33), specifically numbers 9, 12, 14, 17 18, 28 and 32, OPC has requested the discovery of confidential information the disclosure of which could harm PEF's competitive business interests.

2. In particular, the documents and information sought contain and include proprietary and confidential information that would impair PEF's competitive business interests if publicly disclosed, as well as information concerning bids or other contractual data the

disclosure of which would impair the Company's ability to contract on favorable terms and, in many cases, the information is trade secret and would violate contractual confidentiality provisions. Further, the information requested also contains internal auditing reports and

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controls, the disclosure of which would impair the Company's ability to successfully perform internal audits by inhibiting full and candid disclosure to internal auditors. This information meets the definition of proprietary confidential business information pursuant to Section 366.093(3), Florida Statutes.

3. Section 366.093(2), Florida Statutes, and Rule 25-22.006(6)(c), Florida Administrative Code, direct that all records produced pursuant to a discovery request for which confidential status is requested shall be treated by Public Counsel as confidential and shall be exempt from the public records law, Section 119.07(1), Florida Statutes. PEF, by this motion, is seeking protection of all confidential information that PEF will produce to OPC in this matter pursuant to OPC's Second Request for Production of Documents (Nos. 44-53) and OPC's Second Set of Interrogatories (Nos. 8-33), as more specifically set forth above.

4. PEF has recorded the appropriate objections to providing such confidential, proprietary business information, and will provide documents and information responsive to these requests marked as confidential subject to this motion, the law, Commission rules, and PEF's objections. By following this procedure and producing this information, PEF is not waiving its right to seek further relief as necessary to ensure that its confidential, proprietary, business information is not publicly disclosed.

5. PEF further requests that in connection with the entry of a temporary protective order, the Commission also require Public Counsel to provide PEF with notice of its intent to use such confidential information in connection with the hearing in this matter. Should OPC use any of the confidential information provided pursuant to this motion for temporary protective order in the hearing on this matter, PEF will file a motion for protective order pursuant to Rule 25-22.006(6)(a) and Florida Rule of Civil Procedure 1.280. See Fla. Admin. Code R. 25-

22.006(6)(c) (“[i]f 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.”).

6. PEF has been authorized by counsel for OPC to represent that OPC does not object to the granting of this motion.

WHEREFORE, PEF requests that the Commission enter an Order granting its Motion for Temporary Protective Order relating to information identified as confidential and produced in response to OPC’s Second Request for Production of Documents (Nos. 44-53) and OPC’s Second Set of Interrogatories (Nos. 8-33); instructing Public Counsel to continue to treat such information as confidential; and requiring Public Counsel to provide PEF with notice of its intent to use such confidential information in connection with the hearing in accordance with the prehearing order governing procedure in this docket.

Respectfully submitted,



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CERTIFICATE OF SERVICE

I HEREBY CERTIFY a true and correct copy of the foregoing has been furnished to counsel and parties of record as indicated below via electronic and U.S. Mail this 1st day of April, 2010.



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