

ORIGINAL

Matilda Sanders

From: Leone, Samantha [SLeone@CarltonFields.com]
Sent: Monday, December 06, 2004 3:47 PM
To: Filings@psc.state.fl.us
Cc: Jennifer Brubaker; Rick Melson; Tim Perry; Vicki Gordon Kaufman; jmcwhirter@mac-law.com; christensen.patty@leg.state.fl.us; Walls, J. Michael; bonnie.davis2@pgnmail.com
Subject: Docket No. 041272-EI

Progress Energy Florida provides the following information:

a. The attorney responsible for the filing is:

John T. Burnett
 Carlton Fields, PA
 4221 W. Boy Scout Boulevard
 Tampa, Florida 33607
 813.223.7000 phone
 813.229.4133 fax

b. The documents are to be filed in Docket No. 041272-EI

c. The documents are filed on behalf of PEF.

d. The documents are 3, 2, 6, and 15 pages long.

e. The documents are:

1. PEF's Motion for Temporary Protective Order;
2. PEF's Notice of Service of Answers to OPC's First Set of Interrogatories (Nos. 1-11);
3. PEF's Response to OPC's First Request for Production of Documents (Nos. 1-11); and
4. PEF's Answers to OPC's First Set of Interrogatories (Nos. 1-11).

CMP _____
 COM _____
 CTR _____
 ECR _____
 GCL _____
 OPC _____
 MMS _____
 RCA _____
 SCR _____
 SEC 1
 OTH _____

*CCA note: Nos. 3 and 4
 forwarded to GCL.*

*NY
 12/6/04*

Samantha Leone

DOCUMENT NUMBER-DATE

12905 DEC-6 04

FPSC-COMMISSION CLERK

12/6/2004

Case Clerk

Carlton Fields, PA

Corporate Center Three at International Plaza

4221 W. Boy Scout Boulevard

Tampa, Florida 33607

Phone: 813-223-7000 x2461

Fax: 813-229-4133

slcone@cartonfields.com

www.cartonfields.com

ORIGINAL

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Progress Energy Florida, Inc.'s)
petition for approval of storm cost) Docket No.: 041272-EI
recovery clause for extraordinary)
expenditures related to Hurricanes)
Charley, Frances, Jeanne, and Ivan.) Submitted for Filing: December 6, 2004
 _____)

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

Progress Energy Florida, Inc. ("PEF"), by and through undersigned counsel, hereby moves pursuant to Section 366.093, Florida Statutes, and Rule 25-22.006(6) for entry of a temporary protective order covering certain documents sought in discovery by the Office of Public Counsel ("OPC") and as grounds therefore states as follows:

1. On December 6, 2004, PEF served documents responsive to OPC's First Request for Production of Documents on OPC. Some of those documents contain confidential information related to PEF's competitive business interests, the disclosure of which would impair PEF's competitive business. The confidential information discussed above is responsive to OPC's First Request for Production of Documents, Requests 4, 5, and 7. This information is sensitive, confidential, proprietary business information that has been treated as such by PEF, its parent and affiliates, and is information that PEF keeps confidential.

2. Section 366.093(2), Florida Statutes, and Rule 25-22.006(6), Florida Administrative Code, direct that all records produced pursuant to a discovery request for which proprietary confidential status is requested shall be treated by public counsel as confidential and shall be exempt from the public records law, Chapter 119.07(1), Florida Statutes. PEF, by this motion, is seeking protection of these documents, has recorded the appropriate objections to

providing such confidential, proprietary business information, and has provided documents 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 these documents, PEF is not waiving its right to seek further relief as necessary to make certain that its confidential, proprietary, business information is not publicly disclosed.

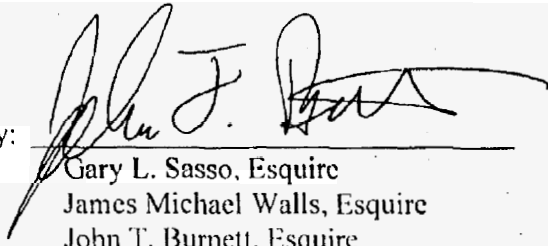
3. PEF further requests that in connection with the entry of a temporary protective order, the Commission also require Public Counsel to provide PEF with notice of its intent to use such confidential documents in connection with the hearing in this matter.

4. Counsel for PEF has conferred with counsel for OPC and is authorized to represent that OPC has no objection to the Commission granting this motion.

WHEREFORE, PEF requests that the Commission enter an Order granting its Motion for Temporary Protective Order relating to documents identified as confidential and produced in response to OPC's First Request for Production of Documents, instructing Public Counsel to continue to treat them as confidential, and requiring Public Counsel to provide PEF with notice of its intent to use such confidential documents in connection with the hearing in accord with the prehearing order governing procedure.

Respectfully submitted,

By:



Gary L. Sasso, Esquire
James Michael Walls, Esquire
John T. Burnett, Esquire
Carlton Fields, P. A.
P. O. Box 3239
Tampa, FL 33601-3239

Bonnie E. Davis,
Deputy General Counsel
106 E. College Avenue
Suite 800
Tallahassee, FL 32301-7740
Attorneys for PEF

Progress Energy Florida

Docket No. 041272-EI

CERTIFICATE OF SERVICE

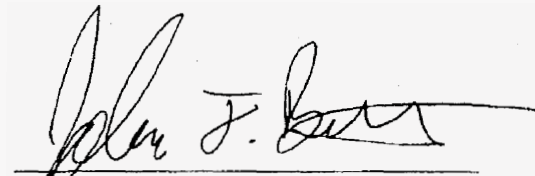
I HEREBY CERTIFY that a true copy of the foregoing has been furnished to the following individuals by electronic mail and regular U.S. Mail the 6th day of December, 2004.

Jennifer Brubaker, Esquire
Office of the General Counsel
Florida Public Service Commission
2540 Shumard Oak Blvd.
Tallahassee, FL 32399-0850

Vicki Gordon Kaufman, Esquire
McWhirter Reeves McGlothlin Davidson
Kaufman & Arnold, P.A.
117 South Gadsden Street
Tallahassee, FL 32301

John W. McWhirter, Esquire
McWhirter Reeves McGlothlin Davidson
Kaufman & Arnold, P.A.
400 North Tampa St.
Tampa, FL 33602

Patricia A. Christensen, Esquire
Office of the Public Counsel
c/o The Florida Legislature
111 West Madison St., Room 812
Tallahassee, FL 32399-1400



Attorney