

ORIGINAL

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Sent: Tuesday, January 11, 2005 10:02 AM
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Subject: Docket 040817

The attached document, Progress Energy Florida, Inc.'s Second Motion for Protective Order, was served/filed today in Docket No. 041272-EI on behalf of Progress Energy Florida, Inc.

Confidential: This e-mail contains a communication protected by the attorney-client privilege. If you do not expect such a communication from Jeanne Costello on behalf of John Burnett, please delete this message without reading it or any attachment, and then notify Jeanne Costello at jcostello@carltonfields.com of this inadvertent mis-delivery.

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FPSC-COMMISSION CLERK

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:** January 11, 2005

PROGRESS ENERGY FLORIDA, INC.'S
SECOND 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 confidential documents sought in discovery by the Office of Public Counsel ("OPC") and as grounds therefore states as follows:

1. Throughout the course of discovery in this proceeding, OPC has asked for copies of documents produced to other parties in response to discovery propounded by those parties. Recently, OPC has requested copies of such documents, and some of those documents contain confidential information protected by Section 366.093, Florida Statutes. The documents in question have been previously produced to the Staff of the Florida Public Service Commission ("Staff") and/or to the Florida Industrial Power Users Group ("FIPUG") with appropriate procedures in place to protect the confidentiality of those documents. The confidential information in those documents is sensitive, and/or 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

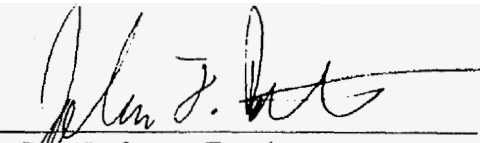
proprietary confidential status is requested shall be treated by public counsel as confidential and shall be exempt from the public records law, Chapter 119.07(1), Florida Statutes. PEF, by this motion, is seeking protection of all confidential documents that PEF will produce to OPC in this matter pursuant to OPC's request for copies of documents produced to other parties in this matter in discovery. PEF has recorded the appropriate objections to providing such confidential, proprietary business information, and will provide 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.

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 any of OPC's requests for copies of documents produced to other parties in this matter, 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:



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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 11th day of January, 2005.

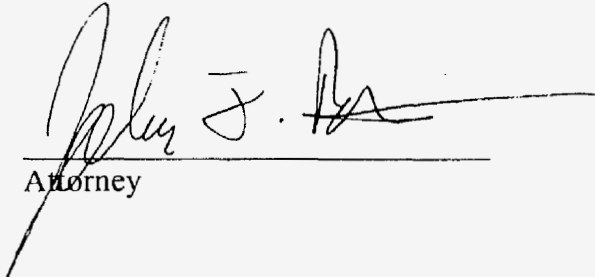
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