

ORIGINAL

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 Sent: Wednesday, January 19, 2005 3:16 PM  
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 Subject: Docket No. 041272

The following documents were served/filed today in Docket No. 041272-EI on behalf of Progress Energy Florida, Inc.:

1. Progress Energy Florida, Inc.'s Fourth Motion for Protective Order; and
2. Progress Energy Florida, Inc.'s Notice of Service of responses to Office of Public Counsel's Third Request for Production of Documents (Nos. 22-23) and Fourth Request for Production of Documents (No. 24) to Progress Energy Florida.

<<PEF Storm Recovery 4th Mtn Temp Prot Order.pdf>>  
3rd RFP & 4th RFP.pdf>>

<<PEF Storm Recovery Notice Serv Rsp OPC

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 Gary Sasso, 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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ORIGINAL

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Progress Energy Florida, Inc.'s )  
 petition for approval of storm cost ) Docket No.: 041272-El  
 recovery clause for extraordinary )  
 expenditures related to Hurricanes )  
 Charley, Frances, Jeanne, and Ivan. ) Submitted for Filing: January 19, 2005  
 )

**PROGRESS ENERGY FLORIDA, INC.'S**  
**FOURTH 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. In its Third Request for Production of Documents (Nos. 22-23), OPC has requested confidential documents that are responsive to Request 22 and Request 23, specifically, documents in Bates ranges PEF-SR-10372 through PEF-SR-10446, and PEF-SR-10588 through PEF-SR-10589. The confidential information in those documents is sensitive, 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 Third Request for Production of Documents, Request 22 and Request

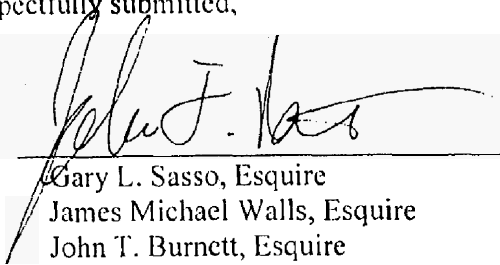
23. PEF has recorded the appropriate objections to providing such confidential, proprietary business information, and will provide documents responsive to these requests marked as confidential subject to this motion, the law, Commission rules, and PEF's objections. By following this procedure and producing 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 OPC's Third Request for Production of Documents, Request 22 and Request 23, 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 19<sup>th</sup> day of January, 2005.

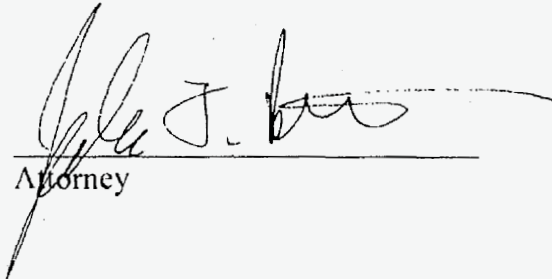
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