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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Progress Energy Florida, Inc.'s)
petition for approval of long-term fuel)
supply and transportation contracts for)
Hines Unit 4 and additional system)
supply and transportation.)

Docket No.: 041414-EI

COMMISSION
CLERK

PROGRESS ENERGY FLORIDA, INC.'S
FIFTH 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), Florida Administrative Code, for entry of a temporary protective order covering confidential documents and information sought in discovery by the Office of Public Counsel ("OPC") and as grounds therefore states as follows:

1. In its Fourth Request for Production of Documents (No. 5), OPC has requested confidential information that is responsive to Staff's Fifth Set of Interrogatories, specifically, portions of the responses to Interrogatory Numbers 149, 150, 151, 154, and 162. Portions of the responses to these interrogatories contain confidential information regarding contracts and proposals between PEF and fuel suppliers. Public

disclosure of the information in question would violate confidentiality agreements between PEF and fuel suppliers and would impair PEF's ability to contract for services such as fuel supply on competitive and favorable terms. PEF has also filed a Request for Confidential Classification regarding the information at issue in conjunction with its responses to Staff's fifth set of discovery.

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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 information that PEF will produce to OPC in this matter pursuant to OPC's Fourth Request for Production of Documents as more specifically stated above. 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 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 information 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 information identified as confidential and produced in response to OPC's Fourth Request for Production of Documents, instructing Public Counsel to continue to treat it 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 accord with the prehearing order governing procedure.

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true copy of the foregoing has been furnished to the following individuals as indicated in the service list on this 14th day of April, 2005.

Via electronic and U.S. Mail

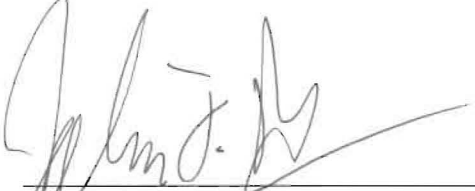
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