

# Hopping Green & Sams

Attorneys and Counselors

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October 4, 2005

## **BY HAND-DELIVERY**

Blanca Bayó  
Director, Office of the Commission Clerk  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, FL 32399-0850

Re: Docket No. 050001-EI  
Motion for Protective Order

Dear Ms. Bayó:

Enclosed for filing in the above docket are the original and fifteen (15) copies of Progress Energy's Motion for a Protective Order for portions of its answers to the Office of Public Counsel's (OPC's) Second Set of Interrogatories (Nos. 6 – 14).

Please acknowledge receipt and filing of the above by stamping and returning the duplicate copy of this letter.

If you have any questions regarding this notice, please give me a call at 425-2359.

Very truly yours,

*Virginia C. Dailey*  
for Gary V. Perko

GVP/dg  
Enclosures  
cc: Certificate of Service

DOCUMENT NUMBER-DATE

09451 OCT-4 05

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY, on behalf of Progress Energy Florida, Inc.'s Motion for Temporary Protective Order in Docket No. 050001-EI have been furnished by hand-delivery (\*) or regular U.S. mail to the following this 4<sup>th</sup> day of October, 2005.

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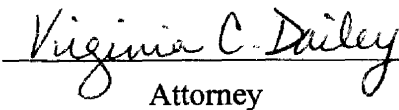
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**BEFORE THE PUBLIC SERVICE COMMISSION**

In re: Fuel and purchased power cost recovery clause with generating performance incentive factor.      Docket No. 050001-EI  
Dated: October 4, 2005

**PROGRESS ENERGY FLORIDA'S MOTION  
FOR TEMPORARY PROTECTIVE ORDER**

Progress Energy Florida, Inc. ("Progress Energy" or the "Company"), pursuant to Section 366.093, F.S., and Commission Rule 25-22.006(6)(c), F.A.C., hereby moves the Florida Public Service Commission (the "Commission" or "FPSC"), acting through its designated Prehearing Officer, for a temporary protective order to safeguard and protect from public disclosure certain confidential information that PEF is providing in response to Citizens' Second Set of Interrogatories. In support, Progress Energy states:

1. In response to Citizens' Second Set of Interrogatories (Nos. 6, 7, 8, 9, 12, 13 and 14) is providing the Office of Public Counsel ("OPC") certain proprietary confidential business information. Specifically, Progress Energy's responses to such interrogatories include fuel price information which constitutes contractual data, the disclosure of which would impair the efforts of the Company or its affiliates to negotiate fuel supply contracts on favorable terms. *See* § 366.093(3)(d), F.S. Furthermore, the information relates to the competitive interests of Progress Energy and its fuel suppliers, the disclosure of which would impair their competitive businesses. *Id.* § 366.093(3)(e). Accordingly, such information constitutes "proprietary confidential business information" which is exempt from disclosure under the Public Records Act pursuant to Section 366.093(1), F.S. Progress Energy is willing to provide the requested information to OPC, so long as the confidential information is protected from the harm that would result from public disclosure.

2. Subsection (6)(c) of the Commission's confidentiality rule, 25-22.006, states:

When a utility or other person agrees to allow Public Counsel to inspect or take possession of utility information for the purpose of determining what information is to be used in a proceeding before the Commission, the utility may request a temporary protective order exempting the information from section 119.07(1), F.S. If 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. If the information is not to be used in a proceeding before the Commission, then Public Counsel shall return the information to the utility in accordance with the record retention requirements of the Department of State.

The temporary protective order provided for by subsection (6)(c) is ideally suited to the circumstances presented by this motion and will afford the protection needed by the Company.

3. The undersigned has been authorized by counsel for OPC to represent that OPC does not object to the granting of a temporary protective order.

WHEREFORE, Progress Energy respectfully requests entry of a temporary protective order protecting against public disclosure the confidential information contained the Company's responses to Citizens' Second Set of Interrogatories (Nos. 6, 7, 8, 9, 12, 13, and 14).

RESPECTFULLY SUBMITTED this 4<sup>th</sup> day of October, 2005

HOPPING GREEN & SAMS, P.A.

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for Gary V. Perko  
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