

Matilda Sanders

From: Dana Greene [DanaG@hgslaw.com]
Sent: Tuesday, October 18, 2005 10:03 AM
To: Filings@psc.state.fl.us
Cc: mcglathlin.joseph@leg.state.fl.us
Subject: Docket 050001-EI

Attachments: Scan057.PDF



Scan057.PD
F (258 KB)

Electronic Filing

a. Person responsible for this electronic filing:

Gary V. Perko
Hopping Green & Sams, P.A.
123 S. Calhoun Street
Tallahassee, FL 32301
1-850-425-2359
gperko@hgslaw.com

b. Docket No. 050001-EI

In re: Fuel and Purchased Power Cost Recovery

c. Document being filed on behalf of Progress Energy Florida, Inc.

d. There are a total of 4 pages.

e. The document attached for electronic filing is Progress Energy Florida's Motion for Temporary Protective Order.

Thank you for your cooperation.

Dana Greene
Legal Assistant to William H. Green & Gary V. Perko Hopping Green & Sams, P.A.
123 South Calhoun Street
P.O. Box 6526
Tallahassee, Florida 32314
850-425-3437
850-224-8551 FAX
danag@hgslaw.com

CMP
COM

- CTR _____
- ECR _____
- GCL _____
- OPC _____
- RCA _____
- SCR _____
- SGA _____
- SEC 1
- OTH Kim P. Lockard

DOCUMENT NUMBER-DATE
10073 OCT 18 05
FPSC-COMMISSION CLERK

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 18, 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' Fifth Request to Produce Documents No. 13. In support, Progress Energy states:

1. PEF is providing the Office of Public Counsel ("OPC") certain proprietary confidential business information requested by OPC in its Fifth Request to Produce Documents No. 13. Specifically, the documents being provided are fuel contracts and related documents that include 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.

DOCUMENT NUMBER-DATE

10073 OCT 18 05

FPSC-COMMISSION CLERK

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.

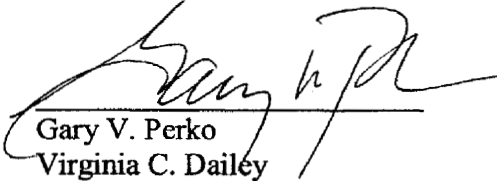
3. The undersigned has attempted to contact counsel for OPC, but has been unable to determine OPC's position on this motion.

WHEREFORE, Progress Energy respectfully requests entry of a temporary protective order protecting against public disclosure the confidential information being provided to OPC in responses to Citizens' Fifth Request to Produce Documents No. 13.

RESPECTFULLY SUBMITTED this 12 day of October, 2005

HOPPING GREEN & SAMS, P.A.

By:


Gary V. Perko
Virginia C. Dailey
P.O. Box 6526
Tallahassee, FL 32301
(850) 425-2359

Attorneys for Progress Energy Florida, Inc.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY, on behalf of Progress Energy Florida's Motion for Temporary Protective Order in Docket No. 050001-~~EL~~ have been furnished by electronic mail (*) or by regular U.S. mail to the following this 18th day of October, 2005.

Adrienne Vining, Esq.
Jennifer Rodan, Esq.
Florida Public Service Commission
2540 Shumard Oak Blvd.
Tallahassee, FL 32399-0850

John T. Butler, Esq.
Squire, Sanders & Dempsey, L.L.P.
200 S. Biscayne Bay Blvd, Suite 4000
Miami, FL 33131-2398

Lee L. Willis, Esq.
James D. Beasley, Esq.
Ausley & McMullen
P.O. Box 391
Tallahassee, FL 32302

Joseph McGlothlin, Esq. (*)
Office of Public Counsel
111 West Madison Street, Rm. 812
Tallahassee, FL 32399

Jeffrey A. Stone, Esq.
Russell A. Badders, Esq.
Beggs and Lane
P.O. Box 12950
Pensacola, FL 32576

Florida Industrial Power Users Group
c/o John W. McWhirter, Jr.
McWhirter Reeves
400 North Tampa Street, Suite 2450
Tampa, FL 33602

Timothy J. Perry, Esq.
McWhirter Reeves, et al.
117 South Gadsden Street
Tallahassee, FL 32301

Florida Power & Light Co.
R. Wade Litchfield, Esq.
700 Universe Blvd.
Juno Beach, FL 33408-0420

Florida Power & Light Co.
Bill Walker
215 S. Monroe Street, Suite 810
Tallahassee, FL 32301

Gulf Power Company
Susan Ritenour
One Energy Place
Pensacola, FL 32520-0780

Tampa Electric Company
Angela Llewellyn
Regulatory Affairs
P.O. Box 111
Tampa, FL 33601-0111

Messer Law Firm
Norman Horton, Jr.
P.O. Box 1876
Tallahassee, FL 32302-1876

Florida Public Utilities Company
Ms. Cheryl Martin
P. O. Box 3395
West Palm Beach, FL 33402-3395

Landers Law Firm
Robert Scheffel Wright/John LaVia, III
P.O. Box 271
Tallahassee, FL 32302

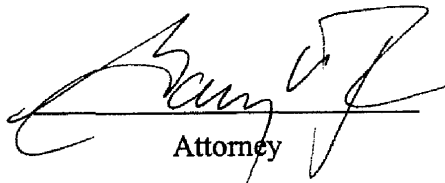
CSX Transportation, Inc.
Mark Hoffman
500 Water St., 14th Floor
Jacksonville, FL 32202

Michael B. Twomey
Post Office Box 5256
Tallahassee, FL 32314-5256

Moyle Law Firm
Jon C. Moyle, Jr.
The Perkins House
118 North Gadsden Street
Tallahassee, FL 32301

Lieutenant Colonel Karen White
Major Craig Paulson
AFCESA/ULT
139 Barnes Drive
Tyndall Air Force Base, FL 32403

R. Alexander Glenn
Deputy General Counsel - Florida
Progress Energy Service Company, LLC
P.O. Box 14042
St. Petersburg, FL 33733


Attorney