

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.

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.

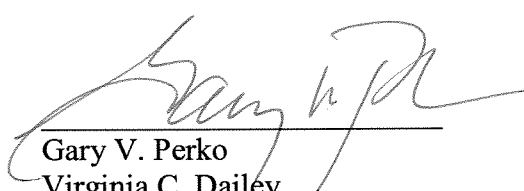
3. The undersigned has attempted to contact counsel for OPC, but has been unable to determine OPC's position on this motion.

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 13th day of October, 2005

HOPPING GREEN & SAMS, P.A.

By:



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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.

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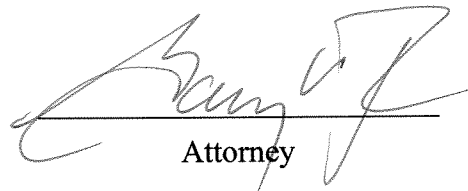
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