

Matilda Sanders

From: Dana Greene [DanaG@hgslaw.com]  
Sent: Friday, October 21, 2005 9:28 AM  
To: Filings@psc.state.fl.us  
Subject: Docket 050001-EI

Attachments: Color013.PDF



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Electronic Filing

a. Person responsible for this electronic filing:

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b. Docket No. 050001-EI

In re: Fuel and Purchased Power Cost Recovery Clause

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

d. There are a total of 5 pages.

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

Thank you for your cooperation.

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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 21, 2005

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

Progress Energy Florida, Inc. ("PEF" 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' (OPC's) Sixth Request to Produce Documents (Nos. 14-15). In support, Progress Energy states:

1. Citizens' Sixth Request to Produce Documents (Nos. 14-15) requests PEF to produce certain documents relating to bids or other contractual data pertaining to certain coal purchases. Specifically, the information includes pricing information for coal purchases by PEF's affiliate, Progress Fuels Corporation (PFC), pricing information from bids received from potential coal suppliers, and documents relating to evaluation of the bids. Disclosure of this information would provide coal suppliers with knowledge of prices that PFC has paid and prices other suppliers have offered. This knowledge would give suppliers significant competitive advantage in future negotiations because they would no longer need to make their best offers to ensure the competitiveness of their rates. Instead, suppliers could simply offer the highest rates that would allow them to maintain a marginally competitive position. As such, disclosure of this information would impair the efforts of the Company or its affiliates to contract for goods or

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services on favorable terms. *See* § 366.093(3)(d), F.S. Furthermore, the information relates to the competitive interests of Progress Energy and its affiliates, 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. PEF 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.

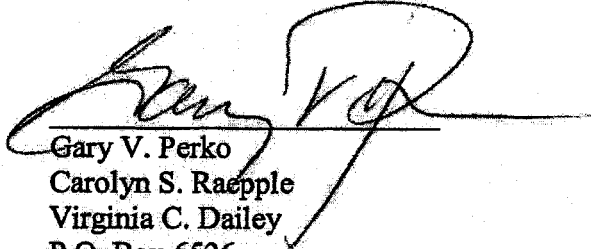
3. The undersigned is authorized to state that OPC does not object to this motion.

WHEREFORE, Progress Energy Florida respectfully requests entry of a temporary protective order protecting against public disclosure the confidential information that PEF is providing in response to Citizens’ Sixth Request to Produce Documents (Nos. 14-15).

RESPECTFULLY SUBMITTED this <sup>21</sup>~~22~~ day of October, 2005

HOPPING GREEN & SAMS, P.A.

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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-EI, has been furnished by hand-delivery (\*) or by regular U.S. mail to the following this 27<sup>th</sup> day of October, 2005.

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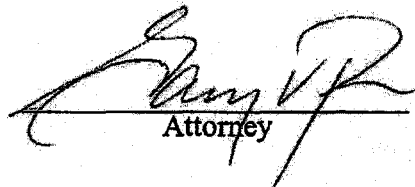
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