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From: Dana Greene [DanaG@hgslaw.com]  
Sent: Wednesday, April 26, 2006 10:57 AM  
To: Filings@psc.state.fl.us  
Cc: CAROLYN S RAEPPLE; Virginia Dailey  
Subject: Docket No. 060007-EI

Attachments: Docket 060007-EI Motion for Protective Ord.pdf



Docket

07-EI Motion for

Electronic Filing

a. Person responsible for this electronic filing:

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b. Docket No. 060007-EI

In re: Environmental Cost Recovery Clause

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.

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FPSC-COMMISSION CLERK

BEFORE THE PUBLIC SERVICE COMMISSION

In re: Environmental Cost Recovery Clause

Docket No. 060007-EI

Dated: April 26, 2006

**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 a request from the Office of Public Counsel (OPC). In support, PEF states:

1. OPC has requested PEF to produce certain documents relating to PEF's Integrated Clean Air Compliance Program, which was filed as Exhibit No. \_\_\_ (DJR-1) to the testimony of Daniel J. Roeder on March 31, 2006. The Confidential Information concerns costs for rail and barge transportation service and constitutes propriety confidential business information entitled to protection under Section 366.093, F.S., and Rule 25-22.006, F.A.C. The Confidential Information identifies PEF's estimates of future costs for rail and barge transportation services. Disclosure of this information would provide a supplier of future rail and barge transportation services knowledge of what the Company expects to pay for transportation services in the future. This knowledge could give potential suppliers of rail and barge transportation services a significant competitive advantage in future contract negotiations because the suppliers would no longer need to make their best offers to ensure the competitiveness of their rates against PEF's estimates of future costs. Instead, the supplier would simply offer the highest rates that allowed

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it to maintain a marginally competitive position against Progress Energy's estimates of transportation costs. As a result, PEF could incur higher fuel costs than if the company's rail or barge transportation supplier was not forearmed with this sensitive and competitively damaging information. Because these higher fuel costs would ultimately be borne by customers of PEF through the fuel charge on their electric bills, disclosure of the estimated future rail and barge transportation costs contained in the Integrated Clean Air Compliance Plan would be contrary to the best interests of PEF's customers. As such, the disclosure of this Confidential Information would impair PEF's efforts to contract for goods or services on favorable terms under 366.093(3)(d), F.S. Accordingly, the information identified 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. PEF filed a request for confidential classification of this Confidential Information on March 31, 2006, which request remains pending before the Commission.


4. 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 OPC's request.

RESPECTFULLY SUBMITTED this 26th day of April, 2006.

HOPPING GREEN & SAMS, P.A.

By:

  
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**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY, on behalf of Progress Energy Florida, PEF's Motion for Temporary Protective Order in Docket No. 060007-EI has been furnished by electronic mail (\*) or regular U.S. mail to the following this 26<sup>th</sup> day of April, 2006.

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