

Timolyn Henry

From: Dana Greene [DanaG@hgslaw.com]
Sent: Friday, June 23, 2006 4:00 PM
To: Filings@psc.state.fl.us
Cc: mcglathlin.joseph@leg.state.fl.us; Martha Brown
Subject: Docket 060007-EI

Attachments: Docket 060007 - PEF's Motion for Temporary Protective Order.pdf



Docket 060007 -
PEF's Motion f...

a. Person responsible for this electronic filing:

Douglas S. Roberts
Hopping Green & Sams, P.A.
123 S. Calhoun Street
Tallahassee, FL 32301
1-850-425-2359
dougr@hgslaw.com

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 5 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 & Virginia C. Dailey 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 5
CTR _____
ECR _____
GCL _____
OPC _____
RCA _____
SCR _____
SGA _____
SEC 1
OTH kimf
Lockard

ORIGINAL

BEFORE THE PUBLIC SERVICE COMMISSION

In re: Environmental Cost Recovery Clause

Docket No. 060007-EI

Dated: June 23, 2006

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

PROGRESS ENERGY FLORIDA, INC. ("PEF" or "the Company"), pursuant to Section 366.093, Florida Statutes ("F.S."), and Commission Rule 25-22.006(6)(c), Florida Administrative Code ("F.A.C."), hereby moves the Florida Public Service Commission ("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) First Request to Produce Documents (Nos. 1-12). In support, PEF states:

1. OPC has requested PEF to produce certain documents relating to PEF's Integrated Clean Air Compliance Plan ("Plan"), which was filed as Exhibit No. ___ (DJR-1) to the testimony of Daniel J. Roeder on March 31, 2006. In response to Request Nos. 3, 4, 6, 8, 9 and 10 of OPC's First Request to Produce Documents, PEF is providing information which constitutes confidential proprietary business information. The Confidential Information concerns PEF's estimated or forecasted costs for equipment, materials and fuels to implement the Plan and constitutes proprietary 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 coal, other fuels and other materials. Disclosure of this information would provide a supplier of coal, other fuels and materials knowledge of what the Company expects to pay for such fuels and material in the future. This knowledge could give potential

DOCUMENT NUMBER-DATE

05561 JUN 23 06

FPSC-COMMISSION CLERK

PROGRESS ENERGY FLORIDA'S
MOTION FOR TEMPORARY PROTECTIVE ORDER
DOCKET NO. 060007-EI
PAGE 2

suppliers of coal and other fuels and materials 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 prices against PEF's estimates of future costs. Instead, the supplier would simply offer the highest prices that allowed it to maintain a marginally competitive position against Progress Energy's estimates of cost for fuel and other materials. The Confidential Information also contains information and reports on equipment and construction services and costs to implement the Plan. Disclosure of this information would provide a supplier of these equipment and construction services knowledge of what the company expects to pay for such equipment and construction services in the future. Disclosure of this Confidential Information would give potential suppliers of equipment and construction service 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 prices for equipment and services against PEF's estimates of future costs. Instead, the supplier would simply offer the highest prices that allowed it to maintain a marginally competitive advantage against PEF's estimates of costs for equipment and construction services. As a result, PEF could incur higher costs for fuel, other material equipment and construction services than if the company's supplier was not forearmed with this sensitive and competitively damaging information. Because these higher costs would ultimately be borne by customers of PEF through the charges on their electric bills, disclosure of the estimated future costs for coal, other fuels and materials, equipment and construction services contained in the Plan and the Confidential Information would be contrary to the best interests of PEF's customers. The disclosure of this information would impair the efforts of the Company or its affiliates to contract for goods or services on favorable terms. See

PROGRESS ENERGY FLORIDA'S
MOTION FOR TEMPORARY PROTECTIVE ORDER
DOCKET NO. 060007-EI
PAGE 3

§ 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), F.S. 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.

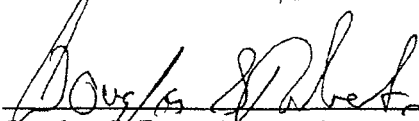
3. The undersigned has conferred with counsel for OPC on this motion and is authorized to state that OPC does not object to this motion.

PROGRESS ENERGY FLORIDA'S
MOTION FOR TEMPORARY PROTECTIVE ORDER
DOCKET NO. 060007-EI
PAGE 4

SERVED this 27th day of June, 2006.

HOPPING GREEN & SAMS, P.A.

By:



Carolyn S. Raeppe, Esquire
Florida Bar No. 329142
Douglas S. Roberts
Florida Bar No. 559466
Virginia C. Dailey
Florida Bar No. 419168
P.O. Box 6526
Tallahassee, FL 32301
(850) 425-2346

Attorneys for Progress Energy Florida, Inc.

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 23rd day of June, 2006.

Martha Carter Brown (*)
Office of General Counsel
Florida Public Service Commission
2540 Shumard Oak Blvd.
Tallahassee, FL 32399-0850

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

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

Florida Power & Light Co.
John T. Butler, Esq.
9250 West Flagler Street
Miami, FL 33174

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

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

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

Tampa Electric Company
Brenda Irizarry
Regulatory Affairs
P.O. Box 111
Tampa, FL 33601-0111

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

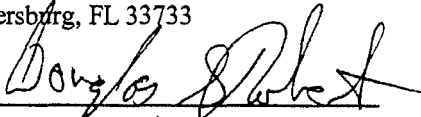
R. Scheffel Wright
John LaVia
Young Law Firm
225 South Adams Street, Suite 200
Tallahassee, FL 32301

Timothy J. Perry, Esq.
McWhirter Law Firm
117 South Gadsden Street
Tallahassee, FL 32301

Florida Retail Federation
John Rogers
Post Office Box 10024
Tallahassee, FL 32302

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

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


Attorney