

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for Increase in Rates by
Progress Energy Florida, Inc.

Docket No. 090079-EI
Submitted for filing: April 22, 2009

**PROGRESS ENERGY FLORIDA, INC.'S FIRST
MOTION FOR TEMPORARY PROTECTIVE ORDER**

Progress Energy Florida, Inc. ("PEF"), by and through undersigned counsel, hereby moves pursuant to Section 366.093, Florida Statutes, and Rule 25-22.006(6), Florida Administrative Code, for entry of a temporary protective order covering confidential documents and information sought in discovery by the Office of Public Counsel ("OPC") and as grounds therefore states as follows:

1. In its First, Second, and Third Requests for Production of Documents (Nos. 1-68, 69-78, and 79-121, respectively, and collectively as the "Requests") OPC has requested the discovery of confidential information, including but not limited to, contractual information which PEF is contractually obligated to and does treat as proprietary and confidential, internal audit reports, and other confidential information the disclosure of which could harm PEF's competitive business interests.

2. Specifically, the requested documents contain information related to existing and proposed contracts, which PEF and the vendors consider confidential. PEF has obligations to maintain the confidentiality of the vendor-supplied information. Disclosure of the confidential contractual information would provide competitors insight into PEF's and/or the vendors' contractual agreements and business practices, which in turn would harm PEF's and the vendors'

competitive interests and impair PEF's ability to contract for goods and services on favorable terms, to the detriment of PEF and its customers. *See* § 366.093(3) (d) and (e), Fla. Stat.

3. The requested documents also include PEF's internal auditing controls and internal audit reports and workpapers. Public disclosure of the documents and information in question would compromise PEF's ability to effectively audit the Company's major projects. If the Company were to know that its internal auditing controls and process were subject to public disclosure, it may not be as thorough while conducting such audits. In addition, such information and documents are specifically defined by Section 366.093(3)(b) as proprietary confidential business information that is entitled to confidential status.

4. The requested documents also contain certain forecasting information, budget numbers, strategic planning information, and other confidential information that PEF does not disclose to the public. Such information, if made available to PEF's competitors, could place PEF at a competitive disadvantage with respect to the other companies with which it competes for various goods and services. If they had PEF's confidential information, they may adjust their behavior in the market place with respect to activities such as pricing and the acquisition and provision of goods, materials and services. *See* § 366.093(3)(e), Fla. Stat.

5. Section 366.093(2), Florida Statutes, and Rule 25-22.006(6), Florida Administrative Code, direct that all records produced pursuant to a discovery request for which proprietary confidential status is requested shall be treated by public counsel as confidential and shall be exempt from the public records law, Section 119.07(1), Florida Statutes. PEF, by this motion, is seeking protection of all confidential information that PEF will produce to OPC in this matter pursuant to OPC's Requests for Production of Documents as more specifically stated above. PEF has recorded the appropriate objections to providing such confidential, proprietary

business information, and will provide documents and information responsive to these requests marked as confidential subject to this motion, the law, Commission rules, and PEF's objections. By following this procedure and producing this information, PEF is not waiving its right to seek further relief as necessary to make certain that its confidential, proprietary, business information is not publicly disclosed.

6. PEF further requests that in connection with the entry of a temporary protective order, the Commission also require Public Counsel to provide PEF with notice of its intent to use such confidential information in connection with the hearing in this matter.

WHEREFORE, PEF requests that the Commission enter an Order granting its Motion for Temporary Protective Order relating to information identified as confidential and produced in response to OPC's First, Second and Third Requests for Production of Documents, instructing Public Counsel to continue to treat it as confidential, and requiring Public Counsel to provide PEF with notice of its intent to use such confidential information in connection with the hearing in accord with the prehearing order governing procedure.

Respectfully submitted,



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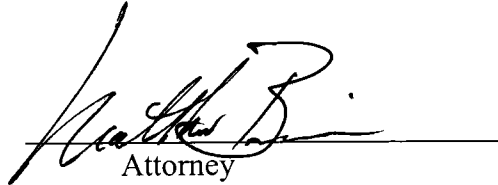
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been served via electronic and U.S. Mail to the following counsel of record as indicated below on this 22nd day of April, 2009.



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