

**Marguerite McLean**

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**Sent:** Tuesday, April 28, 2009 4:09 PM  
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**Subject:** Filing Docket 090079  
**Attachments:** PEF's Notice of Service of Supplemental Response to OPC 1st Interrogatory No. 39b.pdf; PEF's Second Motion for Temporary Protective Order.pdf



PEF'S PEF'S  
SERVICE FOR

<<PEF's Second Motion for Temporary Protective Order.pdf>> Filing

Docket 090079

The attached documents are being filed on behalf of Progress Energy Florida, Inc.:

1. Progress Energy Florida, Inc.'s Second Motion for Temporary Protective Order [3 pages; and
2. Progress Energy Florida, Inc.'s Notice of Service of Supplemental Response to OPC's First Set of Interrogatories No. 39b [2 pages].

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**BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

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

Docket No. 090079-EI  
Submitted for filing: April 28, 2009

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**PROGRESS ENERGY FLORIDA, INC.'S SECOND  
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 Set of Interrogatories (Nos. 1-52), specifically interrogatory number 39(b), OPC has requested the discovery of confidential information the disclosure of which could harm PEF's competitive business interests.

2. Specifically, the requested documents contain certain loaded salary and benefit information for shared executives, 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 regarding attracting and retaining quality executives. If they had PEF's confidential information, they may adjust their behavior in the market place with respect to activities such as negotiating, hiring and retaining such executives. *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 First Set of Interrogatories, 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 Set of Interrogatories, number 39(b), 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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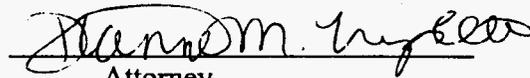
  
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CERTIFICATE OF SERVICE

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 28<sup>th</sup> day of April, 2009.

  
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