

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: June 10, 2009

**PROGRESS ENERGY FLORIDA, INC.'S SEVENTH
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 Eighth Set of Requests for Production of Documents (Nos. 202-221), specifically numbers 205, 206, 207, 208, 209, 216, and 217, OPC has requested the discovery of confidential information the disclosure of which could harm PEF's competitive business interests and would violate contractual confidentiality provisions.

2. Specifically, the responses to requests 205 and 208 include project specific information including contractual terms and agreements, including pricing arrangements and budgetary plans. Such information, if made available to the public, could place PEF at a competitive disadvantage with respect to competitors when attempting to contract for like services, as well as parties with which PEF would hope to contract in the future. If market participants possessed PEF's confidential information they would be able to adjust their behavior in the market place thereby changing the prices at which PEF is able to contract for such services. See § 366.093(3)(d) & (e), Fla. Stat. Furthermore, portions of these documents are

subject to contractual confidentiality agreements, requiring that all parties to the contracts maintain the confidentiality of all documents and information pertaining thereto. The release of this information to the general public would violate those agreements, and seriously impair PEF's ability to contract for goods and services in the future. Additionally, the information produced in responses to request numbers 209, 216, and 217 contain confidential competitive business information relating to 2010 budgetary information for certain projects. Such information, if made available to the public, could place PEF at a competitive disadvantage when attempting to contract for certain products and services by allowing market participants to adjust their behavior accordingly. See § 366.093(3)(e), Fla. Stat. Finally, the responses to requests 206 and 207 contain confidential transmission related analyses and other information that PEF does not release to the public and that would harm PEF's competitive business interests if released to the public and are the product of external and internal audits, evaluations and studies.

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 Eighth Set of Requests for Production of Documents (Nos. 202-221), 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 Eighth Set of Requests for Production of Documents (Nos. 202-221), specifically numbers 205, 206, 207, 208, 209, 216, and 217, 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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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 10th day of June, 2009.


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