

Ruth Nettles

090079-EJ

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 Subject: Filing Docket 090079  
 Attachments: Docket 090079 PEF 10th Motion for Temporary Protective Order.pdf



Docket 090079  
PEF 10th Motion

Docket 090079

In re Petition for increase in rates by Progress Energy Florida, Inc.

1. This filing is made by

Jeanne Costello on behalf of Dianne Triplett  
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2. This filing is Progress Energy Florida, Inc.'s Tenth Motion for Protective Order.

3. This filing is four (4) pages.

4. This filing is made on behalf of Progress Energy Florida, Inc.

**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: July 31, 2009

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**PROGRESS ENERGY FLORIDA, INC.'S TENTH  
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 Thirteenth Set of Requests for Production of Documents (Nos. 259-275), specifically numbers 268 and 274, 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 these requests include contractual terms and data, the disclosure of which would harm PEF's competitive business interests, and would further be a violation of PEF's contractual confidentiality provisions. 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)(e), Fla. Stat.

3. 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 Thirteenth Set of Requests for Production of Documents (Nos. 259-275), 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.

4. 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 Thirteenth Set of Requests for Production of Documents (Nos. 259-275), specifically numbers 268 and 274, 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 31<sup>st</sup> day of July, 2009.

  
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