

Dorothy Menasco

090079-EI

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Sent: Thursday, August 06, 2009 4:42 PM
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Subject: RE: Filing Docket 090079
Attachments: PEF's 11th mtn for TPO.pdf

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

Attached for filing is Progress Energy Florida, Inc.'s Eleventh Motion for Temporary Protective Order. [4 pages].

This filing is made on behalf of Progress Energy Florida by:

Shelly Schrand on behalf of James Michael Walls

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FPSC-COMMISSION CLERK

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: August 6, 2009

**PROGRESS ENERGY FLORIDA, INC.'S ELEVENTH
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 Fourteenth Set of Requests for Production of Documents (Nos. 276-280), specifically number 277, and its Eleventh Set of Interrogatories (Nos. 395-401), specifically number 396, 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 sensitive and confidential information relating to non-regulated labor rates, hours worked, and final compensation, the disclosure of which would harm PEF's competitive business interests. 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 Fourteenth Set of Requests for Production of Documents (Nos. 276-280) and Eleventh Set of Interrogatories (Nos. 395-401, as more specifically set forth 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.

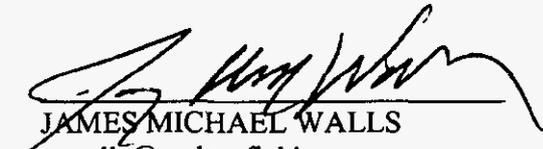
WHEREFORE, PEF requests that the Commission enter an Order granting its Motion for Temporary Protective Order relating to information identified as confidential and produced in response to OPC's Fourteenth Set of Requests for Production of Documents (Nos. 276-280), specifically number 277, and its Eleventh Set of Interrogatories (Nos. 395-401), specifically number 396, 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 accordance 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 6th day of August, 2009.



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