

Diamond Williams

110009-EI

From: Schrand, Shelly [sschrand@carltonfields.com]
Sent: Tuesday, June 28, 2011 12:10 PM
To: Filings@psc.state.fl.us
Cc: Anna Williams; Keino Young; Charles Rehwinkel; sayler.erik@leg.state.fl.us; Vicki Gordon Kaufman; Jon C. Moyle Jr.; bryan.anderson@fpl.com; Jessica Cano; Paul Lewis Jr.; jbrew@bbrslaw.com; ataylor@bbrslaw.com; Matthew J. Feil; Randy B. Miller; Karen S. White; gadavis@enviroattorney.com; jwhitlock@enviroattorney.com; john.burnett@pgnmail.com; Huhta, Blaise N.; Walls, J. Michael; Schrand, Shelly; Costello, Jeanne
Subject: Filing: Docket 110009-EI
Attachments: Docket 110009 PEF mtn for Protective Order - E depo.pdf

Electronic Filing:

a. The person responsible for this electronic filing is:

Blaise N. Huhta
 Carlton Fields, P.A.
 4221 W. Boy Scout Boulevard, Suite 1000
 Tampa, Florida 33607-5780
 Phone: 813.229.4328
 Email: bhuhta@carltonfields.com

b. Docket No. 110009-EI, In re: Nuclear Power Plant Cost Recovery Clause.

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

d. There are a total of five (5) pages in the attached document

e. The document is Progress Energy Florida, Inc.'s First Motion for Temporary Protective Order of confidential information contained in John Elnitsky's deposition transcript.

Thank you.

Shelly Schrand on behalf of Blaise N. Huhta, Esq.

Shelly Schrand
 Florida Registered Paralegal
 4221 W. Boy Scout Boulevard, Suite 1000
 Tampa, Florida 33607-5780
 direct 813.229.4339
 fax 813.229.4133

sschrand@carltonfields.com
www.carltonfields.com



Please consider the environment before printing this email.

DOCUMENT NUMBER-DATE

0444 | JUN 28 =

FPSC-COMMISSION CLERK

6/28/2011

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Nuclear Power Plant Cost Recovery) Docket No. 110009-EI
Clause.)
_____) Submitted for filing: June 28, 2011

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

Progress Energy Florida, Inc. ("PEF" or the "Company"), by and through its undersigned counsel, hereby moves the Florida Public Service Commission (the "Commission"), through the Prehearing Officer, for entry of a Temporary Protective Order covering confidential information contained in the deposition transcript of John Elnitsky pursuant to Section 366.093, Florida Statutes, and Rule 25-22.006(6)(c), Florida Administrative Code. As grounds therefore, PEF states as follows:

1. On June 17, 2011, The Office of Public Counsel ("OPC" or "Citizens") took the deposition of Mr. John Elnitsky. The transcript of the deposition of Mr. Elnitsky contains confidential information the disclosure of which could harm PEF's competitive business interests.

2. In particular, the transcript contains and includes proprietary and confidential information that would impair PEF's competitive business interests if publicly disclosed, as well as contractual data such as cost information the disclosure of which would impair the Company's ability to contract on favorable terms and, in many cases, the information is trade secret and would violate contractual confidentiality provisions. This information meets the definition of proprietary confidential business information pursuant to Section 366.093(3), Florida Statutes.

3. Section 366.093(2), Florida Statutes, and Rule 25-22.006(6)(c), Florida Administrative Code, direct that all information produced pursuant to a discovery request for which confidential status is requested shall be treated by OPC 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 contained in the transcript of Mr. Elnitsky's deposition, as more specifically set forth above.

4. PEF further requests that in connection with the entry of a temporary protective order, the Commission also requires OPC to provide PEF with notice of its intent to use such confidential information in connection with the hearing in this matter. Should OPC use any of the confidential information provided pursuant to this motion for temporary protective order in the hearing on this matter, PEF will file a motion for protective order pursuant to Rule 25-22.006(6)(a) and Florida Rule of Civil Procedure 1.280. See Fla. Admin. Code R. 25-22.006(6)(c) (“[i]f the information is to be used in a proceeding before the Commission, then the utility must file a specific request for a protective order under paragraph (a) above.”).

5. PEF has been authorized by counsel for OPC to represent that OPC does not object to the granting of this motion.

WHEREFORE, PEF requests that the Commission enter an Order granting its Motion for Temporary Protective Order relating to information identified as confidential in the transcript of the deposition of John Elnitsky; and requiring OPC 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 in this docket.

Respectfully submitted this 28th day of June, 2011:

s/ Blaise N. Huhta

R. Alexander Glenn
General Counsel
John Burnett
Associate General Counsel
Dianne M. Triplett
Associate General Counsel
PROGRESS ENERGY SERVICE
COMPANY, LLC
Post Office Box 14042
St. Petersburg, FL 33733-4042
Telephone: (727) 820-5587
Facsimile: (727) 820-5519

James Michael Walls
Florida Bar No. 0706242
Blaise N. Huhta
Florida Bar No. 0027942
Matthew R. Bernier
Florida Bar No. 0059886
CARLTON FIELDS, P.A.
Post Office Box 3239
Tampa, FL 33601-3239
Telephone: (813) 223-7000
Facsimile: (813) 229-4133

CERTIFICATE OF SERVICE

I HEREBY CERTIFY a true and correct copy of the foregoing has been furnished to counsel and parties of record as indicated below via electronic and U.S. Mail this 28th day of June, 2011.

s/ Blaise N. Huhta
Attorney

Anna Williams
Keino Young
Staff Attorney
Florida Public Service Commission
2540 Shumard Oak Blvd
Tallahassee 32399
Phone: (850) 413-6218
Facsimile: (850) 413-6184
Email: anwillia@psc.fl.state.us
kyoung@psc.state.fl.us

Charles Rehwinkel
Associate Counsel
Erik Saylor
Associate Counsel
Office of Public Counsel
c/o The Florida Legislature
111 West Madison Street
Room 812
Tallahassee, FL 32399-1400
Phone: (850) 488-9330
Email: rehwinkel.charles@leg.state.fl.us
Saylor.erik@leg.state.fl.us

Vicki G. Kaufman
Jon C. Moyle, Jr.
Keefe Law Firm
118 North Gadsden Street
Tallahassee, FL 32301
Phone: (850) 681-3828
Fax: (850) 681-8788
Email: vkaufman@kagmlaw.com
jmoyle@kagmlaw.com

Bryan S. Anderson
Jessica Cano
Florida Power & Light
700 Universe Boulevard
Juno Beach, FL 33408-0420
Phone: (561) 691-7101
Facsimile: (561) 691-7135
Email: bryan.anderson@fpl.com
Jessica.cano@fpl.com

Mr. Paul Lewis, Jr.
Progress Energy Florida, Inc.
106 East College Avenue, Ste. 800
Tallahassee, FL 32301-7740
Phone: (850) 222-8738
Facsimile: (850) 222-9768
Email: paul.lewisjr@pgnmail.com

James W. Brew
F. Alvin Taylor
Brickfield Burchette Ritts & Stone, PC
1025 Thomas Jefferson St NW
8th FL West Tower
Washington, DC 20007-5201
Phone: (202) 342-0800
Fax: (202) 342-0807
Email: jbrew@bbrslaw.com
ataylor@bbrslaw.com

Matthew J. Feil
Gunster Yoakley & Stewart, P.A.
215 South Monroe Street, Ste 601
Tallahassee, FL 32301
Phone: (850) 521-1708
Email: mfeil@gunster.com

Karen S. White
Staff Attorney
AFLSA/JACL-ULFSC
139 Barnes Drive, Ste. 1
Tyndall AFB, FL 32403-5319
Phone: (850) 283-6217
Email: Karen.white@tyndall.af.mil

Randy B. Miller
White Springs Agricultural Chemicals, Inc.
PO Box 300
White Springs, FL 32096
Email: RMiller@pscphosphate.com

Gary A. Davis
James S. Whitlock
Gary A. Davis & Associates
61 North Andrews Avenue
P.O. Box 649
Hot Springs, NC 28743
Email: gadavis@enviroattorney.com
jwhitlock@environattorney.com