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Sent: Tuesday, May 12, 2009 12:20 PM
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Subject: Electronic Filing for Docket No. 090079-EI
Attachments: PEF 3rd Motion for Tmporary Protective Order.pdf

* Matthew R. Bernier, Carlton Fields, P.A., 215 South Monroe Street, Ste. 500, Tallahassee, FL 32301, mbernier@carltonfields.com is the person responsible for this electronic filing;

* The filing is to be made in Docket 090079-EI, In re: Petition for rate increase in rates by Progress Energy Florida, Inc.;

* The total number of pages is 3;

* The attached document is Progress Energy Florida, Inc.'s Third Motion for Temporary Protective Order.

Thank you.

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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: May 12, 2009

**PROGRESS ENERGY FLORIDA, INC.'S THIRD
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 Fourth Request for Production of Documents (No. 122), 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 updates to PEF's 2009 financial plan, 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. If they had PEF's confidential information, competitors would be able to adjust their behavior in the market place causing disparities between PEF's budgeted financial plans and the actual costs that PEF would encounter in the market place. 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 Fourth Request for Production of

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Documents, 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 Fourth Request for Production of Documents, number 122, 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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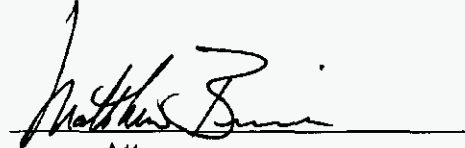
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CERTIFICATE OF SERVICE

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 12th day of May, 2009.


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