

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.

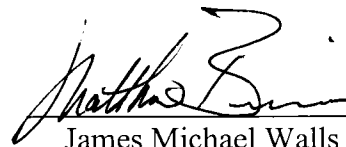
5. Section 366.093(2), Florida Statutes, and Rule 25-22.006(6), Florida Administrative Code, direct that all records produced pursuant to a discovery request for which proprietary confidential status is requested shall be treated by public counsel as confidential and shall be exempt from the public records 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

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,



James Michael Walls
mwalls@carltonfields.com
Florida Bar No. 0706242
Dianne M. Triplett
dtriplett@carltonfields.com
Florida Bar No. 0872431
Matthew Bernier
mbernier@carltonfields.com
Florida Bar No. 0059886
Carlton Fields
4221 W. Boy Scout Boulevard
P.O. Box 3239
Tampa, Florida 33607-5736
(813) 223-7000 / (813) 229-4133 (fax)

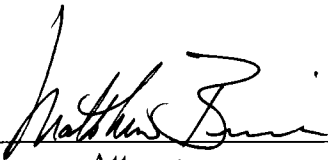
R. Alexander Glenn
alex.glenn@pgnmail.com
John T. Burnett
john.burnett@pgnmail.com
Progress Energy Service Company, LLC
299 First Avenue North
P.O.Box 14042 (33733)
St. Petersburg, Florida 33701
(727) 820-5184
(727) 820-5249(fax)

Paul Lewis, Jr.
Paul.lewisjr@pgnmail.com
Progress Energy Service Company, LLC
106 East College Avenue
Suite 800
Tallahassee, Florida 32301
(850) 222-8738 / (850) 222-9768 (fax)

Richard Melson
rick@rmelsonlaw.com
Florida Bar No. 0201243
705 Piedmont Drive
Tallahassee, FL 32312
(850) 894-1351

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.



Attorney

Katherine Fleming
Staff Counsel
Florida Public Service Commission
2540 Shumard Oak Blvd
Tallahassee, FL 32399

J.R. Kelly/Charles Rehwinkle
Office of the Public Counsel
c/o The Florida Legislature
111 W. Madison Street – Room 812
Tallahassee, FL 32399-1400

Bill McCollum/Cecilia Bradley
Office of the Attorney General
The Capitol – PL01
Tallahassee, FL 32399-1050

Vicki G. Kaufman/Jon C. Moyle, Jr.
Keefe Law Firm, The Perkins House
118 North Gadsden Street
Tallahassee, FL 32301

James W. Brew/Alvin Taylor
Brickfield Law Firm
1025 Thomas Jefferson Street, NW, 8th Fl
Washington, D.C. 20007

R. Scheffel Wright / John T. LaVia
Young Law Firm
225 South Adams Street, Ste. 200
Tallahassee, FL 32301