

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: June 29, 2009
COMMISSION CLERK

PROGRESS ENERGY FLORIDA, INC.'S NINTH
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 Tenth Set of Requests for Production of Documents (Nos. 229-251), specifically numbers 231 and 232, 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

COM the public, could place PEF at a competitive disadvantage with respect to competitors when
ECR
GCL attempting to contract for like services, as well as parties with which PEF would hope to contract
OPC in the future. If market participants possessed PEF's confidential information they would be able
ECP
SSC to adjust their behavior in the market place thereby changing the prices at which PEF is able to
SGA
ADM contract for such services. See § 366.093(3)(e), Fla. Stat.
CLK

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 Tenth Set of Requests for Production of Documents (Nos. 229-251), 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.

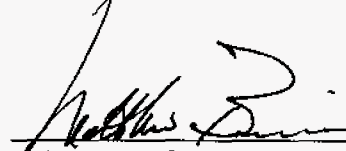
4. PEF further requests that in connection with the entry of a temporary protective order, the Commission also require Public Counsel to provide PEF with notice of its intent to use such confidential information in connection with the hearing in this matter.

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 Tenth Set of Requests for Production of Documents (Nos. 229-251), specifically numbers 231 and 232, 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.

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Respectfully submitted,

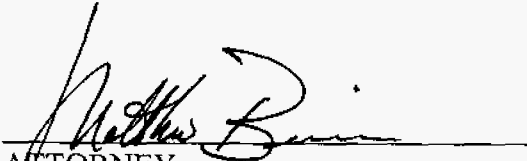


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CERTIFICATE OF SERVICE

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 29th day of June, 2009.


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STATE OF FLORIDA



OFFICE OF COMMISSION CLERK
ANN COLE
COMMISSION CLERK
(850) 413-6770

Public Service Commission

ACKNOWLEDGEMENT

DATE: June 29, 2009

TO: Matthew Bernier, Esquire/Progress

FROM: Marguerite H. McLean, Office of Commission Clerk

RE: Acknowledgement of Receipt of Confidential Filing

This will acknowledge receipt of a CONFIDENTIAL DOCUMENT filed in Docket Number 090079-EI [DN 06485-09] or, if filed in an undocketed matter, concerning response to OPC's 10th requests for PODs (Nos. 231 and 232), and filed on behalf of Progress Energy Florida, Inc. The document will be maintained in locked storage.

If you have any questions regarding this document, please contact Marguerite McLean, Deputy Clerk, at (850) 413-6770.