

BEFORE THE PUBLIC SERVICE COMMISSION

In re: Environmental Cost Recovery Clause.

DOCKET NO. 090007-EI

FILED: APRIL 16, 2009

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**PROGRESS ENERGY FLORIDA'S MOTION
FOR TEMPORARY PROTECTIVE ORDER**

Progress Energy Florida, Inc. ("PEF" or the "Company"), pursuant to Section 366.093, F.S., and Commission Rule 25-22.006(6)(c), F.A.C., hereby moves the Florida Public Service Commission (the "Commission" or "FPSC"), acting through its designated Prehearing Officer, for a temporary protective order to safeguard and protect from public disclosure certain confidential information that PEF is providing in a response to Citizens' (OPC's) First Request for Production of Documents (No. 1). In support, Progress Energy states:

1. In response to OPC's First Request for Production of Documents (No. 1), PEF is providing a contract for consulting services between the Florida Electric Power Coordinating Group, Inc. (FCG), of which PEF is a member, and Atmospheric and Environmental Research, Inc., (AER), as well as a funding request document which summarizes the scope of work and costs for differing levels of service proposed by AER. These documents contain confidential contractual data, such as sensitive cost and staffing information, as well as other contractual terms which may be more favorable than terms offered to other AER clients. Additionally, the

scope of work included with the contract and summarized in the funding request document

contains competition sensitive proprietary information of AER. For the reasons discussed

below, such information qualifies for confidential classification pursuant to Section 366.093,

Florida Statutes. PEF is willing to provide the requested information to OPC, so long as the

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confidential information is protected from the harm that would result from public disclosure.

2. The FCG and PEF negotiate with consultants to obtain competitive contracts for various consulting services. If the information for which PEF seeks confidential classification, particularly the pricing information and other contractual terms, is disclosed, the efforts of the FCG and PEF to obtain consulting services on favorable terms could be compromised by potential contractors changing their negotiating behavior when the FCG or PEF seek to negotiate similar contracts in the future. Likewise, in order to secure contracts, the FCG and PEF must be able to assure such companies that efforts will be made to ensure that sensitive business information, such as the terms of their contracts and proposals, will be kept confidential. Absent such measures, the companies would run the risk that sensitive business information that they provided in their contracts would be made available to the public and, as a result, end up in possession of potential competitors. Faced with that risk, persons or companies who otherwise would contract with the FCG or PEF might decide not to do so if the terms of their contracts or proposals were not kept confidential. Without measures to maintain the confidentiality of sensitive terms in contracts with consulting company's, the efforts of the FCG and PEF to obtain competitive contracts for consulting services could be undermined. For these reasons, the information for which PEF seeks confidential classification constitutes confidential contractual data, "the disclosure of which would impair the efforts of the public utility or its affiliates to contract for goods or services on favorable terms." § 366.093(3)(d), F.S. Furthermore, disclosure of the sensitive information described above would impair the competitive interests of AER. Accordingly, the information is entitled to confidential classification pursuant to Section 366.093(3)(d) and (e), Florida Statutes.

2. Subsection (6)(c) of the Commission's confidentiality rule, 25-22.006, states:

When a utility or other person agrees to allow Public Counsel to inspect or take possession of utility information for the purpose of determining what information is to be used in a proceeding before the Commission, the utility may request a temporary protective order exempting the information from section 119.07(1), F.S. If 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. If the information is not to be used in a proceeding before the Commission, then Public Counsel shall return the information to the utility in accordance with the record retention requirements of the Department of State.

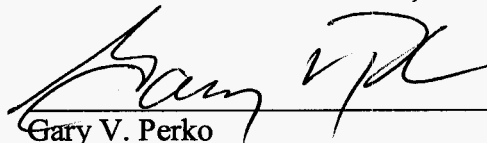
The temporary protective order provided for by subsection (6)(c) is ideally suited to the circumstances presented by this motion and will afford the protection needed by the Company.

3. The undersigned is authorized to state that OPC does not object to this motion.

WHEREFORE, Progress Energy Florida respectfully requests entry of a temporary protective order protecting against public disclosure the confidential information that PEF is providing as part of its supplemental response to Citizens' (OPC's) First Request for Production of Documents (No. 1).

RESPECTFULLY SUBMITTED this 16th day of April, 2009.

HOPPING GREEN & SAMS, P.A.



Gary V. Perko
Florida Bar No. 855898
123 S. Calhoun Street (32301)
Post Office Box 6526
Tallahassee, FL 32314
Telephone: 805-425-2359
Facsimile: 805-224-8551

Attorneys for PROGRESS ENERGY FLORIDA

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of Progress Energy Florida's Motion for Temporary Protective Order has been furnished to all counsel of record and interested parties as listed below by hand-delivery (*) or regular U.S. mail this 16th day of April, 2009.

Martha Carter Brown (*)
Office of General Counsel
Florida Public Service Commission
2540 Shumard Oak Blvd.
Tallahassee, FL 32399-0850

Florida Power & Light Co.
Mr. Wade Litchfield
215 S. Monroe Street, Suite 810
Tallahassee, FL 32301

Lee L. Willis, Esq.
James D. Beasley, Esq.
Ausley Law Firm
P.O. Box 391
Tallahassee, FL 32302

Gulf Power Company
Susan Ritenour
One Energy Place
Pensacola, FL 32520-0780

Joseph McGlothlin, Esq. (*)
Charlie Beck, Esq.
Office of Public Counsel
c/o The Florida Legislature
111 West Madison Street, Rm. 812
Tallahassee, FL 32399

Tampa Electric Company
Paula K. Brown
Regulatory Affairs
P.O. Box 111
Tampa, FL 33601-0111

Jeffrey A. Stone, Esq.
Russell A. Badders, Esq.
Beggs & Lane Law Firm
P.O. Box 12950
Pensacola, FL 32591-2950

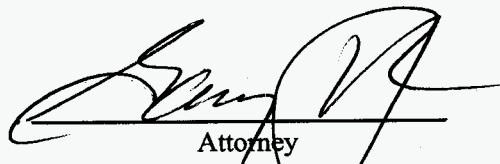
R. Alexander Glenn
Deputy General Counsel - Florida
Progress Energy Service Company, LLC
P.O. Box 14042
St. Petersburg, FL 33733

Florida Industrial Power Users Group
John W. McWhirter, Jr.
c/o McWhirter Law Firm
P.O. Box 3350
Tampa, FL 33601-3350

John T. Burnett
Associate General Counsel - Florida
Progress Energy Service Company, LLC
P.O. Box 14042
St. Petersburg, FL 33733

Florida Power & Light Co.
R. Wade Litchfield, Esq.
John T. Butler, Esq.
700 Universe Blvd.
Juno Beach, FL 33408-0420

Paul Lewis, Jr.
Progress Energy Florida, Inc.
106 East College Avenue, Suite 800
Tallahassee, FL 32301-7740



Attorney