

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Fuel and Purchased Power Cost
Recovery Clause with Generating Performance
Incentive factor.

Docket No. 090001-EI

Dated: August 14, 2009

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COMMISSION
CLERK

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

Progress Energy Florida, Inc., ("PEF" or "Company"), by and through undersigned counsel, hereby moves pursuant to Section 366.093, Florida Statutes (F.S.), and Rule 25-22.006, Florida Administrative Code (F.A.C.), for entry of a Temporary Protective Order covering confidential documents sought by the Office of Public Counsel ("OPC") and as grounds therefore states as follows:

1. OPC has requested a copy of PEF's confidential information contained in its August 4, 2009 Estimated / Actual Tue-Up Testimony of Marcia Olivier, specifically Exhibit MO-1, Schedule E12, Part 2 - Capacity Cost Recovery Calculations for 2009, Page 2 of 2 and certain information contained in PEF's Risk Management Plan, the disclosure of which could harm PEF's competitive business interests.

2. Specifically, the highlighted information in Exhibit MO-1 provides the number of megawatts for specific purchases or sales. In combination with other non-confidential cost data provided in the exhibit, this information could be used to determine the capacity charges for each contract. Disclosure of this information would enable wholesale providers to determine the prices of their competitors, which could result in greater price convergence in future negotiations.

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Suppliers would no longer need to make their best offers to ensure the competitiveness of their prices against the disclosed prices. Instead, suppliers could simply offer the highest prices that would allow them to maintain a marginally competitive position against the disclosed prices. As such, disclosure of the information would impair the Company's efforts to contract for goods or services on favorable terms. *See* § 366.093(3)(d), F.S. Additionally, if the information at issue was disclosed to PEF's competitors, PEF's efforts to obtain competitive energy supply that provides economic value to both PEF and its ratepayers could be compromised by PEF's competitors changing their consumption or purchasing behavior within the relevant markets. *Id.* § 366.093(3)(e). Accordingly, such information constitutes "proprietary confidential business information" which is exempt from disclosure under the Public Records Act pursuant to Section 366.093(1), F.S.

3. In addition, specific information contained in PEF's 2010 Risk Management Plan, specifically Pages 1 through 3 and Attachments A through G provides "proprietary confidential business information" within the meaning of Section 366.093(3), F.S. Specifically, the highlighted information in PEF's Risk Management Plan provides forecasted costs, hedging volumes, hedging percentages, internal policies and guidelines, collateral summaries and unrealized forecasted hedge values. Disclosure of this information would enable fuel suppliers to have insight to PEF's internal risk management guidelines and to obtain competitive information, which could result in greater price convergence in future negotiations. Instead, fuel suppliers could simply offer the highest prices that would allow them to maintain a marginally competitive position against the disclosed forecasted costs and percentages. As such, disclosure of the information would impair the Company's efforts to contract for goods or services on favorable terms. *See* § 366.093(3)(d), F.S. Additionally, if the information at issue was disclosed, PEF's efforts to obtain competitive energy supply that provides

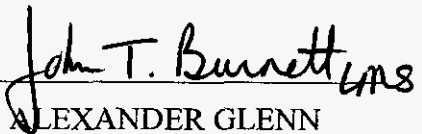
economic value to both PEF and its ratepayers could be compromised by PEF's competitors changing their consumption or purchasing behavior within the relevant markets. *Id.* § 366.093(3)(e). Accordingly, such information constitutes "proprietary confidential business information" which is exempt from disclosure under the Public Records Act pursuant to Section 366.093(1), F.S.

4. Section 366.093(2), F.S., and Rule 25-22.006(6), F.A.C., direct that all records produced for which proprietary confidential status is requested shall be treated by OPC as confidential and shall be exempt from the public records law, Section 119.07(1), F.S. By this motion, PEF is seeking protection of the aforementioned confidential information. By following this procedure and producing this information to OPC, PEF is not waiving its right to seek further relief as necessary to make certain that its confidential, proprietary, business information is not publically disclosed.

5. PEF further requests that in connection with the entry of a temporary protective order, the Commission also require OPC to provide PEF with a 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 documents produced to OPC, specifically Exhibit MO-1, Schedule E12, Part 2 – Capacity Cost Recovery Calculations for 2009, Page 2 of 2 and certain information in PEF's Risk Management Plan marked as confidential, instructing OPC to continue to treat it as confidential, 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 in this matter.

RESPECTFULLY SUBMITTED this 14th day of August, 2009.

Handwritten signature of John T. Burnett in black ink, with a horizontal line drawn through the signature.

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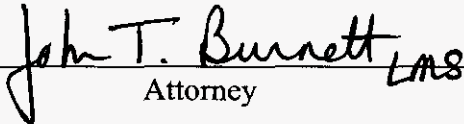
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by regular U.S. mail (* via hand delivery) to the following this 14th day of August, 2009.


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