

Diamond Williams

110009-EI

From: Garcia, Nicki [NGarcia@gunster.com]
Sent: Tuesday, April 12, 2011 3:31 PM
To: Filings@psc.state.fl.us
Cc: Feil, Matthew
Subject: Electronic Filing - Docket No. 110009-EI
Attachments: 20110412152157614.pdf

Attached is an electronic filing for the docket referenced below. If you have any questions, please contact Matt Feil at the number below. Thank you.

Person Responsible for Filing:

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Docket Name and Number: Docket No. 110009-EI – Nuclear Cost Recovery Clause

Filed on Behalf of: Rajiv S. Kundalkar

Total Number of Pages: 44

Description of Documents: Motion to Quash Subpoena and Notices of Deposition.



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02434 APR 12 =

FPSC-COMMISSION CLERK

4/12/2011

Writer's Direct Dial Number: 850-521-1708
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April 12, 2011

VIA ELECTRONIC FILING

Ms. Ann Cole
Commission Clerk
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399

Re: Docket No. 110009-EI - Nuclear Cost Recovery Clause

Dear Ms. Cole:

On behalf of Mr. Rajiv S. Kundalkar, please find attached a Motion to Quash Subpoena and Notices of Deposition for the above-referenced docket.

Your assistance in this matter is greatly appreciated. Should you have any questions, please do not hesitate to contact me.

Sincerely,



Matthew J. Feil

DOCUMENT NUMBER - DATE
02434 APR 12 =
FPSC-COMMISSION CLERK

**BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF FLORIDA**

In re:)
Nuclear Cost Recovery Clause)
_____)

Docket No. 100009-EI
Filed: April 12, 2011

**RAJIV KUNDALKAR'S MOTION TO QUASH SUBPOENA AND NOTICES OF
DEPOSITION**

Pursuant to Sections 350.123 and 120.569, Florida Statutes, and Rule 28-106.204, Florida Administrative Code, comes now the undersigned attorneys who do hereby move to quash the non-party subpoena for deposition issued in this docket on March 29, 2011, to Mr. Rajiv Kundalkar, along with any related cross-notices. The subpoena was issued (in blank) by the Office of the Clerk of the Florida Public Service Commission ("Commission") to the Office of Public Counsel ("OPC"), who then served the subpoena with an attached notice of deposition on the undersigned counsel, who agreed to accept service on behalf of Mr. Kundalkar. The subpoena commands Mr. Kundalkar to appear on April 20, 2011, and be deposed for this proceeding. On April 7, 2011, the Florida Industrial Power User's Group ("FIPUG") served a document entitled "Cross Notice for Deposition," for a telephonic deposition of Mr. Kundalkar. On April 8, 2011, the Commission staff served a similar Cross-Notice. These cross notices ("Cross Notices") are not subpoenas and were not properly served as subpoenas, but are an apparent attempt to "piggy-back" on the March 29, 2011, OPC subpoena.

After a diligent search for authority on the subject, the undersigned has been able to find NO prior Commission order requiring deposition attendance of a non-party, natural person against his or her will, when that person was not currently employed by, or a

contractor/consultant to, a regulated entity or party.¹ The significance of this imposition on a private citizen aside, the circumstances of this case clearly demonstrate that this attempted intrusion is improper in that the subpoena is wholly unnecessary, unreasonably broad in scope and premature.

Although recognizing that the Prehearing Officer in this matter may rule on this motion, Mr. Kundalkar has no objection to this motion being initially heard and determined by the full Commission, as the Prehearing Officer may consider suitable for a case of first impression. Whether initially decided by the Prehearing Officer or the full Commission, Mr. Kundalkar requests oral argument on this motion be granted, pursuant to a separate request filed contemporaneously with this motion.

The facts and the legal authority supporting this motion² and the relief requested herein are as follows:³

¹The Commission's history is long, its records many, and the available search tools are imperfect. However, based on counsel's best efforts review of dozens of dockets and orders, counsel has found no prior Commission order upholding a subpoena for deposition of a private citizen, over the citizen's objection, in circumstances such as are present here. In the past, subpoenas have been issued for different classes of individuals for either deposition or hearing testimony, including some non-party witnesses who appeared without filing objection, such as current company consultants/employees or government employees (other than commission staff). E.g. Docket No. 950495-WS. In the only instances found where a former employee of a utility company was subpoenaed for deposition, it appears the deponent did not object; however, in one such case, the deponent's former employer sought a protective order because he and the company were involved in litigation against one another. See Docket No. 951270-TL. As stated in the body of this motion, Mr. Kundalkar does object to the Subpoena.

² This motion is timely in that it has been filed and served well in advance of the compliance date, i.e., the deposition date of April 20, 2011. The Subpoena does not require production of any documents. The FIPUG cross notice does not request production of documents, and the staff's cross notice contains an inapplicable instruction for production of materials used in the preparation of testimony in this docket. Mr. Kundalkar, as a non-party, is not bound by procedural requirements placed on parties.

³ The filing of this motion should not be construed as an agreement to appear by Mr. Kundalkar or as his agreement or consent to the Commission's subpoena power over his person or to an obligation to further respond in this matter.

Background

1. Mr. Kundalkar is a private citizen and retired resident of Palm Beach County, Florida. He is not a current employee of Florida Power & Light Company ("FP&L"), the regulated company that is a party to this proceeding before the Commission, nor any FP&L affiliate. Mr. Kundalkar has not been in the employ of FP&L since February 2010, when he retired.

2. On March 21, 2011, the Commission Clerk issued a blank subpoena to OPC, which OPC filled in only with direction to Mr. Kundalkar to appear for a deposition in accordance with a notice of deposition attached thereto. A copy of said subpoena with the notice of deposition ("Subpoena") is attached hereto and marked "Motion Exhibit A."⁴ The Subpoena does not identify any topic or subject matter or issue about which Mr. Kundalkar will be asked to testify. The Subpoena, on its face, is a blanket demand for asking everything about anything at a deposition on April 20, 2011, in Palm Beach County. The FIPUG and staff Cross Notices, also included in "Motion Exhibit A," are no different from the Subpoena in that they are totally non-descriptive and open-ended.

3. Attached hereto and incorporated herein as "Motion Exhibit B" is an affidavit of Mr. Kundalkar. In the affidavit, Mr. Kundalkar avers to the following: (a) He retired from FP&L in February 2010. (b) He is not employed by or a paid contractor or consultant to FP&L or any affiliate of FP&L. (c) He has no role in the business or operations of FP&L or any affiliate of FP&L. (d) He has no access to the non-public operational or business information of

⁴ The Subpoena was served with a check for \$8, written on the personal bank account of an OPC attorney. For public record reasons, a copy of that check is not included herewith.

FP&L. (e) He has not participated in any way in the current year's or prior year's nuclear cost recovery ("NCR") dockets. (f) He did, while in the employ of FP&L in September 2009, testify before the Commission in Docket No. 090009, the NCR proceeding for that year; however, his testimony was consistent with FP&L's position in the case and was based on supporting information from FP&L and input of its employees, management and consultants. (g) He possesses substantially the same or identical personal knowledge of information regarding Docket No. 090009 as other individuals still employed by or working for FP&L.

4. In this matter, FP&L has prefiled the testimony of multiple witnesses to address any issues within its jurisdiction associated with Docket No. 090009, including Mr. Terry Jones, an FP&L Vice President, Mr. John Reed, CEO of Concentric, and, Mr. Art Stall, a consultant to NextEra Energy, Inc. (FP&L's parent) and previous president of FPL Group Nuclear. Mr. Stall's prefiled testimony, based on personal knowledge, directly addresses what and when FP&L knew about Extended Power Uprate ("EPU") costs at the time of the September 2009 hearing. None of these witnesses have been noticed for deposition in this proceeding.

5. This Commission has a surfeit of able witnesses and will have a considerable record before it to test the validity and veracity of FP&L's cost information from 2009, to assess the reasonableness and prudence of those costs, and to make any cost adjustments the Commission deems warranted, as is the Commission's duty. Indeed, the Commission performs this duty routinely, trueing-up costs annually in clause cases, without requiring appearance from retired personnel with no current or unique information. There is no necessity or adequate legal

basis – and it is a dubious policy choice – for the Commission to take the unprecedented step of subpoenaing a private citizen in this matter.

Argument

6. The Commission's authority to issue subpoenas is governed by Section 350.123, Florida Statutes. Section 350.123 provides,

The commission **may** administer oaths, take depositions, issue protective orders, **issue subpoenas and compel the attendance of witnesses** and the production of books, papers, documents and other evidence **necessary for the purpose of any investigation or proceeding**. Challenges to, and enforcement of, such subpoenas and orders shall be handled as provided in s. 120.569.

(Emphasis supplied.) As the bolded language indicates, issuing subpoenas and compelling testimony is discretionary on the part of the Commission. But, if that discretionary power is exercised, its use must be "necessary for the purpose of any investigation or proceeding." There has been no showing in this case that the Subpoena is necessary for purposes of this proceeding. On its face, the Subpoena is devoid of any scope and provides no foundation whatsoever for its necessity. It is completely open-ended. On this basis alone, the Subpoena must be quashed, as was done in Order No. PSC-95-1134-PCO-WS, issued September 11, 1995, in Docket No. 950495-WS (the "Sugarmill Order to Quash"), attached hereto as "Motion Exhibit C." There, a commission staff member was subpoenaed for deposition by a party, Sugarmill Woods. Staff filed a motion to quash and for a protective order. Commissioner Kiesling, expressly declining to address any unique status or privilege held by commission staff, ruled as follows:

Neither Sugarmill's Notice of Deposition nor the accompanying subpoena describe the area of inquiry to be explored in deposition, thus making it impossible to determine whether the area of inquiry would be relevant to the subject matter of this proceeding or

could lead to the discovery of any admissible evidence. **For this reason**, the subpoena is hereby quashed. Having made the determination to quash the subpoena on the grounds of deficiency, no further ruling on Staff's Motion and the issues raised therein is necessary.

Sugarmill Order to Quash, p. 1 (emphasis supplied). Accordingly, the similarly open-ended type of subpoena served in this case must also be quashed.

7. Some may choose to brush aside this fatal defect and shift focus to the argument that only Mr. Kundalkar should address the subject matter of his testimony from the hearing in Docket No. 090009, for this must be the unstated but understood purpose of the Subpoena. The Commission must reject this argument because to do otherwise abdicates the Commission's powers under 350.123 to any attorney who pens a vague subpoena. A facially limitless subpoena simply cannot fulfill the "necessity" requirement of 350.123. Moreover, the unstated-but-understood argument cannot be squared with the averments in Mr. Kundalkar's affidavit and, more particularly, the averment that Mr. Kundalkar does not have knowledge of information pertinent to Docket No. 090009 that others still working for the company will not also have. In a February 28, 2011, pleading in this case, OPC framed a tentative issue which encompasses at least one factual question. In the way of a crude summary, that question is what did FP&L know in Docket No. 090009 and when did it know it?⁵ Since the question itself points to FP&L, movant submits that the "necessity" element of Section 350.123 dictates the Commission first exhaust the various institutionalized means at its disposal⁶ to elicit information from FP&L, a

⁵ The tentative issue, as written, has not yet been recognized by a Commission order as an issue it will consider in the case.

⁶ I.e., discovery and subpoenas, if necessary, issued to FP&L.

party to this proceeding, before resorting to the unprecedented and unnecessary intrusion of subpoenaing non-party citizens. As noted above, no party to this proceeding has noticed for deposition any of the witnesses for whom FP&L has prefiled testimony, including Mr. Art Stall, whose prefiled testimony appears proffered to address the tentative issue head-on.⁷ By contrast, Mr. Kundalkar has not volunteered to testify in this matter, is not employed by or a consultant to FP&L, and, as established in his affidavit, has no personal knowledge of facts and information pertinent to Docket No. 090009 which others still in the employ of FP&L will not also have. In short, the circumstances here do not warrant a finding of “necessity” in accordance with Section 350.123, and certainly do not warrant the Commission’s upholding an open-ended subpoena such as was issued here.⁸

8. The Commission cannot overlook the “necessity” requirement of Section 350.123 and must reject any urging, no matter how subtle, to the contrary. Every word in a statute must be given meaning. E.g., Johnson v. Feder, 485 So.2d 409, 411 (Fla. 1986) (“We are compelled by well-established norms of statutory construction to choose that interpretation of statutes and rules which renders their provisions meaningful. Statutory interpretations that render statutory provisions superfluous ‘are, and should be, disfavored.’”) (internal citations and quotations

⁷ Mr. Stall was President of FPL Group Nuclear from January 2009 until May 1, 2010. (Stall Prefiled Direct at p. 2.) The purpose of his testimony is to address the EPU project cost estimate issues that arose in the 2010 NRC proceedings. (Stall Prefiled Direct at p. 3.) He was present at key meetings involving the EPU project costs, he explains the evolution of the estimates and the basis for the company’s position, and he is the author of FP&L’s response to the Concentric Report. (Stall Prefiled Direct at p. 3 – 6.) Neither Mr. Stall nor any other FP&L personnel have been sought for deposition in this case.

⁸ There have already been volumes of evidence regarding the tentative issue entered into the record of the 2010 NCR hearing. The Commission may consider, with proper notice to parties, incorporating into the record for the current case parts of the record from prior NCR cases.

omitted); Hechtman v Nations Title Ins. Of New York, 840 So.2d 993, 996 (Fla. 2003) (“It is an elementary principle of statutory construction that significance and effect must be given to every word, phrase, sentence and part of the statute if possible, and words in a statute should not be construed as mere surplusage.”) The phrase “necessary to any investigation or proceeding” in 350.123 modifies all enumerated discretionary powers preceding it.⁹ The necessity requirement, by its plain meaning,¹⁰ is clearly designed to limit Commission power and deter abuses. Further, the discretionary subpoena power of the Commission, like all of its discretionary powers, should be exercised cautiously, since “[a]ny reasonable doubt as to the lawful existence of a particular power that is being exercised by the Commission must be resolved against the exercise thereof . . . and the further exercise of the power should be arrested.” City of Cape Coral v. GAC Utilities, Inc. of Florida, 281 So.2d 493, 496 (Fla. 1973); see also State Dept. of Transportation v. Mayo, 354 So.2d 359, 361 (Fla. 1977).

9. The Commission must also consider the public policy implications of compelling appearances by non-party citizens, and, after balancing competing interests, find that sound public policy also favors quashing the subpoena. In Sugarmill Woods Civic Association, Inc., v. Southern States Utilities, 687 So.2d 1346 (Fla. 1st DCA 1997), the court upheld a commission prehearing officer’s order quashing subpoenas served on commission staff and a utility company

⁹ No other reading is reasonable or consistent with proper sentence construction. See e.g. State v. Bodden, 877 So.2d 680, 685 (Fla. 2004) (“[t]he Legislature is presumed to know the meaning of words and the rules of grammar, and the only way the court is advised of what the legislature intends is by giving the generally accepted construction, not only to the phraseology of the act but to the manner in which it is punctuated.”) (quoting Florida State Racing Comm’n v. Bourquardey, 42 So.2d 87, 88 (Fla. 1949)).

¹⁰ See e.g. Forsythe v. Longboat Key Beach Erosion, 604 So.2d 452, 454 (Fla. 1992) (“It is a fundamental principle of statutory construction that where the language of a statute is plain and unambiguous there is no occasion for judicial interpretation.”)

attorney. The prehearing officer “declined to find the existence of a privilege, but analyzed the public policy foundations for the claim that [the utility] attorney and the subpoenaed PSC staff members should not be required to participate in the depositions.” Id. at 1351. The court ruled that the prehearing officer had the discretion to weigh the competing interests of the parties and the authority to prevent discovery she concluded to be a fishing expedition calculated for harassment. Id.

10. A decision not to quash the Subpoena here opens the door for any party to subpoena any private citizens -- to harass and inconvenience them unnecessarily. Who to subpoena among a party's or the Commission's former employees will become a tactical decision for every case hereafter. The tactical decision after that, like in many civil and criminal cases, may be who among a current or former employee's associates, family members and friends to subpoena. Make no mistake about it, once the door is open to subpoena private citizens, the Commission may not be able to close it. All it takes is alluring pretext from the attorneys involved in a case. First they may claim, as here, a former company employee must be asked what he/she may have known and when he/she knew it, in an unwarranted attempt to attribute knowledge to the company. Then it will be subpoenas for the associates of current or former employees, because they all spoke with one another regarding the area of intended inquiry. And somewhere down the line, a former Commissioner or staff member will be subpoenaed for the sake of asking what he/she knew and when, in an attempt to attribute such

knowledge to the Commission itself.¹¹ Since commission proceedings often build off prior decisions involving the same company, and the doctrine of administrative finality has its exceptions, the Commission's opening the door for non-party citizens to be subpoenaed may fuel re-litigating once-settled matters a party deems significant to its current position. Subpoenas have very little up-front cost and individuals involved in old proceedings can be easy targets for abuse, as here.

11. There is no need for the Commission to open the door for the subpoena of private citizens in this case. As a matter of public policy, the intrusion on a private citizen of this state posed by Commission subpoena power is outweighed by the interests of such persons in being left alone, particularly where, as demonstrated here, adequate means exist and other witnesses with the same information are available for the Commission to capture necessary data and execute its duties. The Commission should adopt a more restrictive, measured approach consistent with its jurisdictional authority and apply simple, common decency for a private citizen, a retiree, caught in the middle.

12. The Subpoena in this case must also pass muster under Section 120.569, Florida Statutes, which provides, in pertinent part:

Any person subject to a subpoena may, before compliance and on a timely petition, request the presiding officer having jurisdiction of the dispute to invalidate the subpoena on the ground that it was not lawfully issued, is unreasonably broad in scope or requires the production of irrelevant material.

¹¹ The prospect of this could have a chilling effect on the Commission's ability to carry out its duties and its ability to attract qualified personnel.

Section 120.569(2)(k)1, Florida Statutes. The Subpoena in this case fails to meet these basic legal requirements in several respects, most of which are contained in the arguments raised above. So, for example, the Subpoena was not lawfully issued in accordance with 120.569(2)(k)1 because it does not meet the “necessity” requirement of Section 350.123, Florida Statutes, and has no legitimate purpose other than to harass and inconvenience Mr. Kundalkar.

13. As stated above, the Subpoena, as written, is limitless. It has no stated topics or issues, no check sheet, no boundaries, and thus creates the impression that anything is fair game. Thus, the Commission can have no assurance that the information sought by the Subpoena directly relates to or is even within the scope of this proceeding or the Commission’s jurisdiction. This is the worst kind of “fishing expedition.” For it is one thing for a party to attempt a fishing expedition against another party to a case, who may return same in kind, but another matter entirely, and far worse, to do this against an innocent bystander. Because the Subpoena says nothing regarding possible fields of inquiry, Mr. Kundalkar, who is a year-and-a-half removed from any responsibility in NCR matters, who possesses no pertinent company documents or special knowledge of relevant matters, and who is retired from FP&L, is left to guess what he may be asked. Mr. Kundalkar has not prefiled testimony in the case, and he has no authority regarding this matter or in the affairs of FP&L since he retired. The subpoena is an unwelcomed surprise, to say the least, and is so vague and unreasonably broad in scope, that it makes it impossible for him to prepare for what may come next. This is inconsistent with Mr. Kundalkar’s

constitutional rights,¹² basic principles of fairness, and the scoping requirements of Section 120.569(2)(k)1. As Commissioner Kiesling recognized in the Sugarmill Order to Quash, open-ended subpoenas, particularly those to non-parties, are improper and should be quashed.

14. Section 120.569(2)(k)1 directs the issuing authority to deny a subpoena which “requires the production of irrelevant material.” Any open-ended subpoena like the one here is a blank check for irrelevant material and is therefore improper. Sugarmill Order to Quash. In addition, the Commission has not yet ruled on the propriety or dimensions of the tentative issue OPC identified; so the relevance of anything sought through the Subpoena for that issue cannot be properly determined at this time. In light of the unprecedented nature of the intrusion on a non-party private citizen, judicial restraint counsels in favor of quashing the Subpoena for these reasons.

15. The Subpoena of Mr. Kundalkar serves no necessary or lawful purpose under Chapters 350 and 366, Florida Statutes. In this case, FP&L has, consistent with the Commission’s Order Establishing Procedure, prefiled testimony from multiple witnesses to address the issues which the Commission may be interested in vetting further and which are within the Commission’s specific statutory powers. Mr. Jones, an FP&L Vice President, Mr. Reed, CEO of Concentric, and Mr. Stall, a consultant to NextEra Energy, Inc., and former President of FPL Group Nuclear, all prefiled direct testimony and are subject to deposition and cross examination in this matter. These witnesses all have direct knowledge on matters of potential Commission inquiry pertinent to the case. Based on the Commission’s evaluation of

¹² The Commission does not have jurisdiction to make determinations on constitutional questions. However, Mr. Kundalkar provides notice that he reserves his rights to assert applicable constitutional objections in the appropriate forum.

the testimony and veracity of these and other witnesses and the record evidence as a whole, the Commission is charged by statute with making whatever adjustments to the NCR clause the Commission deems warranted.

16. The purpose of this docket is to address reasonable and prudent costs pursuant to Section 366.93, Florida Statutes. The Commission has only those powers expressly granted by the Legislature,¹³ and these powers do not include prosecutorial or contempt powers. If the Commission does not accept any pertinent part of FP&L's testimony or evidence in this docket, the Commission's appropriate recourse is with FP&L and possible adjustment of the NCR factors. Therefore the Commission should look to FP&L and its witnesses for information pertinent to this docket.¹⁴

17. The Cross Notices are not subpoenas, were not properly served as subpoenas, and do not have the legal force and effect of subpoenas.¹⁵ Rule 1.310 of the Florida Rules of Civil Procedure make no mention of a "cross notice" of deposition because a cross notice of deposition **is** a notice of deposition. A notice of deposition is appropriate for a party witness, not a non-party witness, like Mr. Kundalkar. Under Rule 1.410 of the Rules of Civil Procedure,

¹³ E.g. Storey v. Mayo, infra (and cases cited therein); Southern States Utils. v. Pub. Serv. Comm'n, 714 So. 2d 1046, 1051 (Fla. 1st DCA 1998) (en banc) ("Commission's powers, duties and authority are those and only those that are conferred expressly or impliedly by statute of the State.") (citations and internal quotations omitted); Ocampo v. Dep't of Health, 806 So.2d 633, 634 (Fla. 1st DCA 2002) ("An agency can only do what it is authorized to do by the Legislature."). Accord, Globe Sec. v. Pringle, 559 So. 2d 720, 722 (Fla. 1st DCA 1990) (noting that workers' compensation is a creature of statute and must be governed by what the statute provides, "not by what we may feel the law should be").

¹⁴ In light of contentiousness during parts of the prior NRC proceedings, an open-ended subpoena in this case would be suspect.

¹⁵ Neither counsel for FIPUG nor counsel for staff contacted the undersigned to request waiver of the subpoena or service requirements under the law.

anyone wishing to depose a non-party witness must issue a subpoena.¹⁶ The undersigned has found no decisional authority in Florida for the proposition that parties are relieved of the obligation under the rules to serve deposition subpoenas on non-parties simply because some other party served a subpoena first. This defect notwithstanding, the Cross Notices are as open-ended and contain no more information than the Subpoena, and are therefore likewise defective under the law even if they were issued as subpoenas or were allowed to “piggyback” on the Subpoena.

Conclusion

18. To avoid undue imposition and intrusion on non-parties in docketed proceedings, and to comport with the principles underpinning the “necessity” standard in Section 350.123, the Commission should order in this case that absent unusual circumstances, information which may be obtained from parties to a proceeding (including the employees and consultants of the party) should first be sought **from** the parties to the proceeding.

19. Mr. Kundalkar is not an employee or a paid consultant to FP&L or any affiliate of FP&L. He is a retiree with no regular, continuing role in FP&L’s operations. He has not participated in this docket or in the preparation, support or filing of FP&L’s case in this docket in any capacity. Mr. Kundalkar does not have any unique knowledge of any issues, times, dates and places of which the commission may enquire, nor does he possess the voluminous proprietary documents exchanged in discovery or filed in this docket. He is a non-party, private citizen, served with a subpoena which failed to comport with Sections 350.123 and 120.569,

¹⁶ See, e.g. Scripto Tokai Corp v. Cayo, 623 So.2d 828, 829 (Fla. 3rd DCA 1993), and Anderson Investments Company, Ltd. v. Lynch, 540 So.2d 832, 833 (Fla. 4th DCA 1988).

Florida Statutes, and which does not serve any purpose consistent with the Commission's authority in this matter. The Subpoena should therefore be quashed and the Cross Notices quashed or stricken.

WHEREFORE, Mr. Rajiv S. Kundalkar moves that the Commission quash the subpoena issued to him in this docket and quash or strike any notice or cross-notice for his deposition.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read "Matthew J. Feil", written over a horizontal line.

Matthew J. Feil
Gunster Yoakley & Stewart, P.A.
215 South Monroe Street, Ste 601
Tallahassee, FL 32301

Attorneys for Rajiv S. Kundalkar

Motion Exhibit A

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

IN RE: Docket No. 110009-EI Nuclear cost
recovery clause.

SUBPOENA FOR DEPOSITION

THE STATE OF FLORIDA

3/29/2011

H065

2nd
Jury

12:42pm

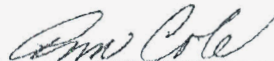
TO: — Rajiv S. Kundalkar, 11591 Buckhaven Ln.,
West Palm Beach, FL 33412-1607

YOU ARE COMMANDED to appear before a person authorized by law to take depositions at
Galleria International, 301 Clematis St., Ste. 3000, West Palm Beach, FL 33401
on April, 20th, at 9:30 a.m., to testify in this action.

YOU ARE SUBPOENAED to appear by the following attorney(s) and, unless excused from
this subpoena by these attorneys or the Commission, you shall respond to this subpoena as
directed.

DATED March 21, 2011

(SEAL)



Ann Cole, Commission Clerk
Office of Commission Clerk
Florida Public Service Commission

Joe McGlothlin
Attorney for Office of Public Counsel

Florida Bar No. 163771
111 West Madison St.
Room 812
Tallahassee, FL 32399-1400
(850) 488-9330

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Nuclear Cost Recovery
Clause.

DOCKET NOS: 110009-EI
FILED: March 29, 2011

NOTICE OF DEPOSITION

TO: Matthew Feil
Gunster Law Firm
215 South Monroe Street, Suite 601
Tallahassee, FL 32301

Rajiv S. Kundalkar
11591 Buckhaven Ln.
West Palm Beach, FL 33412-1607

NOTICE is hereby given that the undersigned or another attorney with the Office of Public Counsel will take the deposition of the following individual at Galleria International, 301 Clematis St., Suite 3000, West Palm Beach, FL 33401.

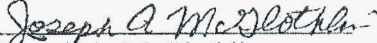
<u>Deponent</u>	<u>Date & Time</u>	<u>Location</u>
Rajiv S. Kandulkar	Wednesday, April 20, 2011 9:30 a.m.	Galleria International 301 Clematis St., Suite 3000 West Palm Beach, FL 33401

This deposition shall be taken upon oral examination before an official court reporter or other officer authorized by law to take depositions. The deposition is being taken for purposes of discovery, for use at trial, or for any other purposes allowed under the Florida Rules of Civil Procedure and the Rules of the Florida Public Service Commission.

Parties of Record will be provided a dial-in number by email.

PLEASE GOVERN YOURSELVES ACCORDINGLY.

J. R. Kelly
Public Counsel


Joseph A. McGlothlin
Associate Public Counsel

Office of Public Counsel
c/o The Florida Legislature
111 West Madison Street, Room 812
Tallahassee, FL 32399-1400
(850) 488-9330

Attorneys for the Citizens
of the State of Florida

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and foregoing Citizens' Notice of Deposition has been furnished by electronic mail and/or U.S. Mail on this 29th day of March, 2011, to the following:

Keino Young, Esquire
Anna Williams, Esquire
Division of Legal Services
Florida Public Service Commission
2540 Shumard Oak Blvd.
Tallahassee, FL 32399-0850

Matthew Bernier
Carlton Fields Law Firm
215 S. Monroe Street, Ste. 500
Tallahassee, FL 32301

Vicki G. Kaufman
Jon C. Moyle, Jr.
Florida Industrial Power Users Group
c/o Keefe Law Firm, The Perkins House
118 North Gadsden Street
Tallahassee, FL 32301

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

Randy B. Miller
White Springs Agricultural Chemicals, Inc.
15843 Southeast 78th Street
Post Office Box 300
White Springs, FL 32096

James W. Brew
Alvin Taylor
Brickfield Law Firm
Eighth Floor, West Tower
1025 Thomas Jefferson Street, NW
Washington, DC 20007

J. Michael Walls
Blaise N. Huhta
Carlton Fields Law Firm
P.O. Box 3239
Tampa, FL 33601-3239

Bryan S. Anderson
Jessica Cano
Florida Power & Light Company
700 Universe Boulevard
Juno Beach, FL 33408-0420

John T. Burnett
R. Alexander Glenn
Progress Energy Service Company
P.O. Box 14042
St. Petersburg, FL 33733-4042

Ken Hoffman
Florida Power & Light Company
215 S. Monroe St., Suite 810
Tallahassee, FL 32301

Allan Jungels, Capt. ULFSC
Federal Executive Agencies
c/o AFLSA/JACL-ULFSC
139 Barnes Drive, Suite 1
Tyndall AFB, FL 32403-5319

Matthew Feil
Gunster Law Firm
215 South Monroe Street, Suite 601
Tallahassee, FL 32301

Rajiv S. Kundalkar
11591 Buckhaven Ln.
West Palm Beach, FL 33412-1607


Joseph A. McGlothlin

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Nuclear Cost Recovery
Clause.

DOCKET NO: 110009-EI
FILED: April 7, 2011

CROSS-NOTICE OF DEPOSITION

TO: Matthew Feil
Gunster Law Firm
215 South Monroe Street, Suite 601
Tallahassee, FL 32301

Rajiv S. Kundalkar
11591 Buckhaven Ln.
West Palm Beach, FL 33412-1607

NOTICE is hereby given that the Florida Industrial Power Users Group (FIPUG) will take the deposition of the following individual telephonically, with the deponent located at Galleria International, 301 Clematis St., Suite 3000, West Palm Beach, FL 33401.

<u>Deponent</u>	<u>Date & Time</u>	<u>Location</u>
Rajiv S. Kandulkar	Wednesday, April 20, 2011 Immediately following the Office of Public Counsel	(Telephonically) Galleria International 301 Clematis St., Suite 3000 West Palm Beach, FL 33401

This deposition shall be taken upon oral examination before an official court reporter or other officer authorized by law to take depositions. The deposition is being taken for purposes of discovery, for use at trial, or for any other purposes allowed under the Florida Rules of Civil Procedure and the Rules of the Florida Public Service Commission.

PLEASE GOVERN YOURSELVES ACCORDINGLY.

s/ Vicki Gordon Kaufman
Vicki Gordon Kaufman
Jon C. Moyle, Jr.
Keefe Anchors Gordon & Moyle, PA
118 North Gadsden Street
Tallahassee, Florida 32301
Telephone; (850)681-3828
Facsimile: (850)681-8788
vkaufman@kagmlaw.com
jmoyle@kagmlaw.com

Attorneys for Florida Industrial Power Users Group

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and foregoing FIPUG's Cross-Notice of Deposition has been furnished by electronic mail and/or U.S. Mail on this 7th day of April, 2011, to the following:

Keino Young, Esquire
Anna Williams, Esquire
Division of Legal Services
Florida Public Service Commission
2540 Shumard Oak Blvd.
Tallahassee, FL 32399-0850

Matthew Bernier
Carlton Fields Law Firm
215 S. Monroe Street, Ste. 500
Tallahassee, FL 32301

Joseph McGlothlin
Office of Public Counsel
111 West Madison Street
Tallahassee, FL 32399

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

Randy B. Miller
White Springs Agricultural Chemicals, Inc.
15843 Southeast 78th Street
Post Office Box 300
White Springs, FL 32096

James W. Brew
Alvin Taylor
Brickfield Law Firm
Eighth Floor, West Tower
1025 Thomas Jefferson Street, NW
Washington, DC 20007

J. Michael Walls
Blaise N. Huhta
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c/o AFLSA/JACL-ULFSC
139 Barnes Drive, Suite 1
Tyndall AFB, FL 32403-5319

Matthew Feil
Gunster Law Firm
215 South Monroe Street, Suite 601
Tallahassee, FL 32301

Rajiv S. Kundalkar
11591 Buckhaven Ln.
West Palm Beach, FL 33412-1607

s/ Vicki Gordon Kaufman

Vicki Gordon Kaufman

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Nuclear Cost Recovery Clause

DOCKET NO. 110009-EI

DATED: April 8, 2011

STAFF'S CROSS-NOTICE OF TELEPHONIC DEPOSITIONS

TO: Matthew Feil
Gunster Law Firm
215 South Monroe Street, Suite 601
Tallahassee, FL 32301

Rajiv S. Kundalkar
11591 Buckhaven Ln.
West Palm Beach, FL 33412-1607

NOTICE is hereby given that the Staff of the Florida Public Service Commission will take the telephonic deposition of the following named individuals indicated below:

NAME	DATE and TIME	LOCATION
Rajiv S. Kandulkar	Wednesday, April 20, 2011 After 9:30 a.m. following the Office of Public Counsel	(Telephonically) Galleria International 301 Clematis St., Suite 3000 West Palm Beach, FL 33401

The witnesses should bring copies of all the work papers or other materials used by the witness in the preparation of any testimony filed in this docket or used by the witness in the preparation of any responses to Staff's discovery requests in this docket. **Since the deposition will be taken by telephone, please have a Notary Public available to swear in the witness.**

These telephone depositions are being taken for purposes of discovery, for use at trial, or for any other purpose allowed under the Florida Rules of Civil Procedure, the Uniform Rules of Procedure, and the Rules of the Florida Public Service Commission.

Please note that parties may participate in these depositions by calling the telephone number to be provided by separate email. Parties may also attend in person.

Any person requiring accommodation at this hearing because of a physical impairment should call the Office of Commission Clerk at (850) 413-6770 at least 48 hours prior to the hearing. Any person who is hearing or speech impaired should contact the Florida Public Service Commission by using the Florida Relay Service, which can be reached at 1-800-955-8771 (TDD).

STAFF'S CROSS-NOTICE OF TELEPHONIC DEPOSITIONS
DOCKET NO. 110009-EI
PAGE 2

Please govern yourselves accordingly.

KEINO YOUNG, SENIOR ATTORNEY
FLORIDA PUBLIC SERVICE COMMISSION
Gerald L. Gunter Building
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850
Telephone: (850) 413-6199

CERTIFICATE OF OATH

STATE OF _____

COUNTY OF _____

I, the undersigned authority, certify that _____
personally appeared before me at _____ and was duly sworn by
me to tell the truth.

WITNESS my hand and official seal in the City of _____, County of
_____, State of _____, this _____ day of _____,
20____.

Notary Public

State of _____

Personally known _____ OR produced identification _____.

Type of identification produced _____.

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Nuclear Cost Recovery Clause

DOCKET NO. 110009-EI

DATED: April 8, 2011

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing STAFF'S CROSS-NOTICE OF TELEPHONIC DEPOSITIONS was furnished to Matthew Feil, Gunster Law Firm, 215 South Monroe Street, Suite 601, Tallahassee, FL 32301 and to Rajiv S. Kundalkar, 11591 Buckhaven Ln., West Palm Beach, FL 33412-1607, and that a copy of same was furnished to the following, by electronic mail and/or U.S. Mail, on this 8th day of April, 2011.

Progress Energy Service Company, LLC
John T. Burnett / R. Alexander Glenn, Esq.
P.O. Box 14042
St. Petersburg, FL 33733-4042

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

Florida Industrial Power Users Group
Vicki G. Kaufman / Jon C. Moyle, Jr.
c/o Keefe Law Firm, The Perkins House
118 North Gadsden Street
Tallahassee, FL 32301

Florida Power & Light Company
Bryan S. Anderson / Jessica A. Cano
700 Universe Boulevard
Juno Beach, FL 33408-0420

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

Brickfield, Burchette, Ritts & Stone, PC
James W. Brew / F. Alvin Taylor
Eighth Floor West Tower
1025 Thomas Jefferson Street, NW
Washington, DC 20007-5201

CERTIFICATE OF SERVICE
DOCKET NO.
PAGE 2

Carlton Fields Law Firm
J. Michael Walls / Blaise N. Huhta
P.O. Box 3239
Tampa, FL 33601-3239

Carlton Fields Law Firm
Matthew Bernier
215 S. Monroe Street, Ste. 500
Tallahassee, FL 32301

Federal Executive Agencies
Allan Jungels, Capt, ULFSC
c/o AFLSA/JACL-ULFSC
139 Barnes Drive, Suite 1
Tyndall AFB, FL 32403-5319

White Springs Agricultural Chemicals, Inc.
Randy B. Miller
15843 Southeast 78th Street
Post Office Box 300
White Springs, FL 32096

KEINO YOUNG, SENIOR ATTORNEY
FLORIDA PUBLIC SERVICE COMMISSION
Gerald L. Gunter Building
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850
Telephone No. (850) 413-6199

Motion Exhibit B

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Nuclear Power Plant)
Cost Recovery Clause)
_____)

Docket No. 110009-El
Filed: April 12, 2011

AFFIDAVIT OF RAJIV S. KUNDALKAR

STATE OF FLORIDA)
COUNTY OF PALM BEACH)
_____)

BEFORE ME, the undersigned authority, this day personally appeared Rajiv S. Kundalkar, who, after being duly sworn says:

1. I am a resident of Palm Beach County, Florida. My address is 11591 Buckhaven Lane, West Palm Beach, FL.

2. On Tuesday, March 29, 2011, my attorney in Tallahassee was served with a subpoena for deposition issued by the Office of the Commission Clerk of the Florida Public Service Commission ("FPSC"). Per the deposition notice attached, the subpoena was issued at the request of the Florida Office of Public Counsel ("OPC"). My attorney agreed to accept service on my behalf.

3. Excluding a check for \$8 written on the personal bank account of an OPC attorney, a copy of the subpoena and notice is attached hereto as "Affidavit Exhibit A." I have not been served with any other subpoenas in this matter.

4. I am not a current employee of Florida Power & Light Company ("FP&L"), nor am I an employee of any firm affiliated with or related to FP&L. I retired from FP&L over a year ago, in February 2010.

5. I am not a paid contractor or consultant to FP&L, nor do I serve in that capacity for any firm affiliated with FP&L. I am retired, and I am not employed by or a consultant to any entity.

6. I have no role (continuing, recurring or otherwise) in the business or operations of FP&L nor any of its affiliates. I do not possess nor do I have access to any non-public operational or business information of FP&L nor any of its affiliates, whether said information would be pertinent to this case or otherwise.

7. While still employed with FP&L prior to February 2010, I did not participate in the preparation, filing and support of any materials in the instant docket (Docket No. 110009) or in the prior year's docket (Docket No. 100009) for nuclear cost recovery ("NCR").

8. While still employed with FP&L, I did participate in the NCR proceeding in Docket No. 090009 and testified in support of and consistent with FP&L's positions in that case in the hearing of September 2009. My testimony was based upon research, data, and information gathered from FP&L and submitted with the input of FP&L management, employees and consultants. I reviewed, supported and adopted the information of and positions of FP&L on behalf of my employer, FP&L, through this testimony. Other FP&L employees and consultants were involved in the decision-making, preparation, filing and support for that case, and those individuals have substantially the same or identical knowledge, and access to the same information, about the case that I did at the time I served as a witness. To my knowledge and belief, several of these individuals still work with or for FP&L, including witnesses Mr. Art Stall and Mr. Terry Jones, who have submitted prefiled testimony in the current NCR docket, and who I understand will be available to provide such information in this year's NCR docket.

FURTHER AFFIANT SAYETH NOT.


RAJIV S. KUNDALKAR

STATE OF FLORIDA
COUNTY OF PALM BEACH

Sworn and subscribed before me this 12 day of April, 2011, by RAJIV S. KUNDALKAR, who is personally known to me or who has produced _____ as identification and who did take an oath.


Notary Public

DL K534-737-A-221-0

My Commission Expires:



BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

IN RE: Docket No. 110009-EI Nuclear cost
recovery clause.

SUBPOENA FOR DEPOSITION

THE STATE OF FLORIDA

TO: — Rajiv S. Kundalkar, 11591 Buckhaven Ln.,
West Palm Beach, FL 33412-1607

3/29/2011

H065

2nd
Jury

12:42pm

YOU ARE COMMANDED to appear before a person authorized by law to take depositions at
Galleria International, 301 Clematis St., Ste. 3000, West Palm Beach, FL 33401
on April, 20th, at 9:30 a.m., to testify in this action.

YOU ARE SUBPOENAED to appear by the following attorney(s) and, unless excused from
this subpoena by these attorneys or the Commission, you shall respond to this subpoena as
directed.

DATED March 21, 2011

(SEAL)



Ann Cole, Commission Clerk
Office of Commission Clerk
Florida Public Service Commission

Joe McGlothlin
Attorney for Office of Public Counsel

Florida Bar No. 163771

111 West Madison St.

Room 812

Tallahassee, FL 32399-1400

(850) 488-9330

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Nuclear Cost Recovery
Clause.

DOCKET NOS: 110009-EI
FILED: March 29, 2011

NOTICE OF DEPOSITION

TO: Matthew Feil
Gunster Law Firm
215 South Monroe Street, Suite 601
Tallahassee, FL 32301

Rajiv S. Kundalkar
11591 Buckhaven Ln.
West Palm Beach, FL 33412-1607

NOTICE is hereby given that the undersigned or another attorney with the Office of Public Counsel will take the deposition of the following individual at Galleria International, 301 Clematis St., Suite 3000, West Palm Beach, FL 33401.

<u>Deponent</u>	<u>Date & Time</u>	<u>Location</u>
Rajiv S. Kandulkar	Wednesday, April 20, 2011 9:30 a.m.	Galleria International 301 Clematis St., Suite 3000 West Palm Beach, FL 33401

This deposition shall be taken upon oral examination before an official court reporter or other officer authorized by law to take depositions. The deposition is being taken for purposes of discovery, for use at trial, or for any other purposes allowed under the Florida Rules of Civil Procedure and the Rules of the Florida Public Service Commission.

Parties of Record will be provided a dial-in number by email.

PLEASE GOVERN YOURSELVES ACCORDINGLY.

J. R. Kelly
Public Counsel


Joseph A. McGlothlin
Associate Public Counsel

Office of Public Counsel
c/o The Florida Legislature
111 West Madison Street, Room 812
Tallahassee, FL 32399-1400
(850) 488-9330

Attorneys for the Citizens
of the State of Florida

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and foregoing Citizens' Notice of Deposition has been furnished by electronic mail and/or U.S. Mail on this 29th day of March, 2011, to the following:

Keino Young, Esquire
Anna Williams, Esquire
Division of Legal Services
Florida Public Service Commission
2540 Shumard Oak Blvd.
Tallahassee, FL 32399-0850

Matthew Bernier
Carlton Fields Law Firm
215 S. Monroe Street, Ste. 500
Tallahassee, FL 32301

Vicki G. Kaufman
Jon C. Moyle, Jr.
Florida Industrial Power Users Group
c/o Keefe Law Firm, The Perkins House
118 North Gadsden Street
Tallahassee, FL 32301

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

Randy B. Miller
White Springs Agricultural Chemicals, Inc.
15843 Southeast 78th Street
Post Office Box 300
White Springs, FL 32096

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Alvin Taylor
Brickfield Law Firm
Eighth Floor, West Tower
1025 Thomas Jefferson Street, NW
Washington, DC 20007

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P.O. Box 3239
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Florida Power & Light Company
700 Universe Boulevard
Juno Beach, FL 33408-0420

John T. Burnett
R. Alexander Glenn
Progress Energy Service Company
P.O. Box 14042
St. Petersburg, FL 33733-4042

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215 S. Monroe St., Suite 810
Tallahassee, FL 32301

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139 Barnes Drive, Suite 1
Tyndall AFB, FL 32403-5319

Matthew Feil
Gunster Law Firm
215 South Monroe Street, Suite 601
Tallahassee, FL 32301

Rajiv S. Kundalkar
11591 Buckhaven Ln.
West Palm Beach, FL 33412-1607


Joseph A. McGlothlin

Motion Exhibit C

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Application for rate)	DOCKET NO. 950495-WS
increase and increase in service)	ORDER NO. PSC-95-1134-PCO-WS
availability charges by Southern)	ISSUED: September 11, 1995
States Utilities, Inc. for)	
Orange-Osceola Utilities, Inc.)	
in Osceola County, and in)	
Bradford, Brevard, Charlotte,)	
Citrus, Clay, Collier, Duval,)	
Hernando, Highlands,)	
Hillsborough, Lake, Lee, Marion,)	
Martin, Nassau, Orange, Osceola,)	
Pasco, Polk, Putnam, Seminole,)	
St. Johns, St. Lucie, Volusia,)	
and Washington Counties.)	

ORDER QUASHING SUBPOENA

On September 5, 1995, Sugarmill Woods Civic Association, Inc., (Sugarmill) filed a Notice of Deposition and Subpoena, for the deposition of Bill Lowe, Deputy Director of the Division of Water and Wastewater, on September 12, 1995. On September 8, 1995, Public Service Commission Staff (Staff) filed a Motion to Quash Subpoena and for a Protective Order.

Neither Sugarmill's Notice of Deposition nor the accompanying subpoena describe the area of inquiry to be explored in deposition, thus making it impossible to determine whether the area of inquiry would be relevant to the subject matter of this proceeding or could lead to the discovery of any admissible evidence. For this reason, the subpoena is hereby quashed. Having made the determination to quash the subpoena on the grounds of deficiency, no further ruling on Staff's Motion and the issues raised therein is necessary.


Based on the foregoing, it is therefore,

ORDERED by Commissioner Diane K. Kiesling, as Prehearing Officer, that Sugarmill Woods Civic Association, Inc.'s Subpoena of September 5, 1995, for the deposition of Bill Lowe is hereby quashed.

DOCUMENT NUMBER-DATE
08890 SEP 11 95
FPSC-RECORDS/REPORTING

ORDER NO. PSC-95-1134-PCO-WS
DOCKET NO. 950495-WS
PAGE 2

By ORDER of Commissioner Diane K. Kiesling, as Prehearing Officer, this 11th day of September, 1995.


DIANE K. KIESLING, Commissioner and
Prehearing Officer

(S E A L)

MO

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.59(4), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

Any party adversely affected by this order, which is preliminary, procedural or intermediate in nature, may request: (1) reconsideration within 10 days pursuant to Rule 25-22.038(2), Florida Administrative Code, if issued by a Prehearing Officer; (2) reconsideration within 15 days pursuant to Rule 25-22.060, Florida Administrative Code, if issued by the Commission; or (3) judicial review by the Florida Supreme Court, in the case of an electric, gas or telephone utility, or the First District Court of Appeal, in the case of a water or wastewater utility. A motion for reconsideration shall be filed with the Director, Division of Records and Reporting, in the form prescribed by Rule 25-22.060, Florida Administrative Code. Judicial review of a preliminary, procedural or intermediate ruling or order is available if review of the final action will not provide an adequate remedy. Such review may be requested from the appropriate court, as described above, pursuant to Rule 9.100, Florida Rules of Appellate Procedure.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by electronic mail and/or U.S. Mail on this 12th day of April, 2011, to the following:

Keino Young, Esquire
Anna Williams, Esquire
Division of Legal Services
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399
kyoung@psc.state.fl.us

Matthew Bernier
Carlton Fields Law Firm
215 South Monroe Street, Ste 500
Tallahassee, FL 32301

Vicki G. Kaufman
Jon C. Moyle, Jr.
Florida Industrial Power Users Group
c/o Keefe Law Firm, The Perkins House
118 North Gadsden Street
Tallahassee, FL 32301
vkaufman@kagmlaw.com

Paul Lewis, Jr.
Progress Energy Florida, Inc.
106 East College Avenue
Suite 800
Tallahassee, FL 32301
paul.lewisjr@pgnmail.com

Randy B. Miller
White Springs Agricultural Chemicals, Inc.
15843 Southeast 78th Street
Post Office Box 300
White Springs, FL 32096
RMiller@pcsp phosphate.com

Allan Jungels, Capt. ULFSC
Federal Executive Agencies
c/o AFLSA/JACL-ULFSC
139 Barnes Drive, Suite 1
Tyndall AFB, FL 32403
allan.jungels@tyndall.af.mil

James W. Brew
Alvin Taylor
Brickfield Law Firm
Eighth Floor, West Tower
1025 Thomas Jefferson Street, NW
Washington, DC 20007

J. Michael Walls
Blaise N. Huhta
Carlton Fields Law Firm
Post Office Box 3239
Tampa, FL 33601
bhuhta@carltonfields.com

Bryan S. Anderson
Jessica Cano
Florida Power & Light Company
700 Universe Boulevard
Juno Beach, FL 33408
Bryan.Anderson@fpl.com

John T. Burnett
R. Alexander Glenn
Progress Energy Service Company
Post Office Box 14042
St. Petersburg, FL 33733
john.burnett@pgnmail.com

Ken Hoffman
Florida Power & Light Company
215 South Monroe Street
Suite 810
Tallahassee, FL 32301
kenneth.hoffman@fpl.com

Rajiv S. Kundalkar
11591 Buckhaven Lane
West Palm Beach, FL 33412

Erik L. Sayler
Office of Public Counsel
c/o The Florida Legislature
111 West Madison Street, Rm 812
Tallahassee, FL 32399
Sayler.erik@leg.state.fl.us

J.R. Kelly/Rehwinkel/McGlothlin
Office of Public Counsel
c/o The Florida Legislature
111 West Madison Street, Rm 812
Tallahassee, FL 32399
REHWINKEL.CHARLES@leg.state.fl.us
McGlothlin.Joseph@leg.state.fl.us

A handwritten signature in dark ink, appearing to read "Matthew J. Feil", written over a horizontal line.

Matthew J. Feil
Gunster, Yoakley & Stewart, P.A.
215 South Monroe Street, Suite 601
Tallahassee, FL 32301
850-521-1708