

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re:)
Review of the retail rates of)
Florida Power & Light)
Company)

Docket No. 001148-EI
Date Filed: December 19, 2001

ANSWER OF
SOUTH FLORIDA HOSPITAL AND HEALTHCARE ASSOCIATION
TO FLORIDA POWER & LIGHT COMPANY'S
AND OFFICE OF PUBLIC COUNSEL'S
MOTION TO REVISE SCHEDULE SET FORTH
IN ORDER ESTABLISHING PROCEDURE
AND MOTION TO ALTER PROCEDURES

Pursuant to Rules 25-22.060, 28-106.103, and 28-106.303 of the Florida Administrative Code, the South Florida Hospital and Healthcare Association and supporting members (collectively, the "Hospitals") hereby answer "Florida Power & Light Company's ("FPL's") and Office of Public Counsel's ("OPC's") Motion To Revise Schedule Set Forth In Order Establishing Procedure" ("Motion") By this filing, the Hospitals also propose certain procedural modifications that, if made, would enable the Hospitals to support the schedule proposed by FPL and OPC. In support hereof, the Hospitals state as follows:

1. There are two elements that are fundamental to the administrative process that are not achieved by the existing procedural schedule or the procedural schedule jointly proposed by FPL and OPC. There elements are: (i) there should be an opportunity for intervenors and Staff to obtain discovery concerning FPL's direct testimony in a timeframe that will allow intervenors and Staff to take that discovery into account in formulating their direct testimony and (ii) there should be an opportunity for intervenors and Staff to obtain discovery concerning FPL's rebuttal testimony in a timeframe that will allow intervenors and Staff to take that discovery into account in formulating their cross-examination of FPL's witnesses.

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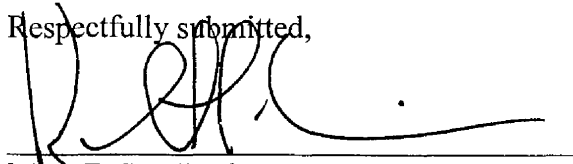
2. Without the opportunity for meaningful discovery prior to filing their own prepared testimony, intervenors' and Staff's direct testimony necessarily: (i) may be incomplete in that it could be based upon testimony by FPL that fails to disclose significant facts needed to formulate a meaningful response or (ii) may contain irrelevant arguments that address matters that can become non-contested through information and clarifications obtained in discovery. Without the opportunity for meaningful discovery with respect to FPL's rebuttal testimony prior to conducting cross-examination, intervenors may be deprived of access to information in FPL's possession that might serve as a basis to discredit arguments FPL raises in its rebuttal testimony. In all of the instances set forth above, the consequence is a process that is inconsistent with administrative efficiency and which deprives intervenors of their due process rights by denying them a meaningful opportunity to obtain information to challenge, to the extent appropriate, amounts that FPL wishes to include in rates.

3. In view of the foregoing, the Hospitals cannot support FPL's and OPC's proposed procedural schedule. However, the Hospitals could support that procedural schedule if two modifications are made that would provide intervenors an opportunity to obtain meaningful discovery responses and adequate time to incorporate those responses into their case preparation. To provide that opportunity, the Hospitals first suggest that FPL be required to produce all discovery responses on an expedited basis, *i.e.*, within 20 days from the request, rather than a 30 day response time. Second, FPL should be required to deliver its direct testimony by hand-delivery or overnight delivery so that all parties can commence their review and analysis of the testimony without waiting to obtain the testimony through regular mail service. Under the proposed schedule, these slight modifications would give intervenors approximately 15 days to formulate their discovery requests, analyze FPL's responses and incorporate the discovery into their prepared testimony. It also would allow

intervenor to obtain discovery responses concerning FPL's rebuttal testimony two days before the commencement of the evidentiary hearing. While the limited timeframes for obtaining and analyzing discovery responses are far from optimal, they at least would provide some opportunity to address the serious problems inherent in the existing procedural schedule and the schedule proposed by FPL and OPC.

WHEREFORE, for the foregoing reasons, the Hospitals move that the procedural schedule proposed by FPL and OPC be approved, conditioned upon adoption of the modified procedures suggested herein.

Respectfully submitted,



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ATTORNEYS FOR THE HOSPITALS

December 19, 2001

**CERTIFICATE OF SERVICE
DOCKET NO. 001148-EI**

I HERBY CERTIFY that a true and correct copy of the foregoing has been furnished by U.S. Mail to the following parties, this 18th day of December, 2001.


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