

**BEFORE THE  
FLORIDA PUBLIC SERVICE COMMISSION**

In re: Petition for authority to recover )  
prudently incurred storm restoration costs )  
related to 2004 storm season that exceed )  
storm reserve balance, by Florida Power & )  
Light Company. )  
\_\_\_\_\_ )

Docket No: 041291-EI

Filed: November 24, 2004

**FLORIDA POWER & LIGHT COMPANY'S  
RESPONSE TO FIPUG'S PETITION TO INTERVENE**

**NOW, BEFORE THIS COMMISSION**, through undersigned counsel, comes Florida Power & Light Company ("FPL" or the "Company"), and pursuant to Rule 28-106.204(1), Florida Administrative Code, files this Response to Florida Industrial Power Users Group's ("FIPUG") Petition to Intervene, filed November 17, 2004, and in support states:

**Introduction**

1. FPL does not object to FIPUG's participation as a party in Docket No. 041291-EI. FPL disagrees, however, with certain of FIPUG's alleged issues as being irrelevant and, therefore, inappropriate for inclusion in this docket. In particular, FPL disagrees with the following disputed issues of material fact alleged by FIPUG:

- f. Should all or some of FPL's storm-related costs be absorbed through base rates?
- g. What ROE should be applicable to FPL?

See FIPUG Petition to Intervene at ¶ 7. Further, FPL disagrees with the following disputed legal issue asserted by FIPUG:

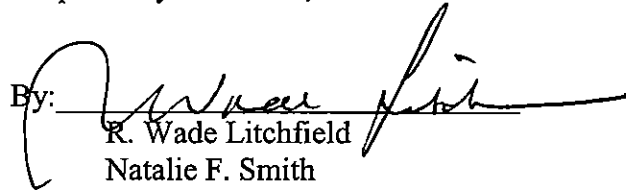
- b. Is FPL entitled to any recovery if it cannot prove it is earning below its authorized ROE?

See id. at ¶ 8.

2. As support for its arguments in this Response, FPL incorporates by reference the arguments included in its Response to FIPUG and OPC's Joint Motion to Dismiss FPL's Petition, which is being filed contemporaneously with this Response. Further, FPL reserves its right to allege what it believes to be the appropriate issues for the Commission's consideration in this docket and the right to object to these and any additional issues raised by FIPUG.

**WHEREFORE**, for the above and foregoing reasons, Florida Power & Light Company respectfully requests that the Commission reject certain of the alleged issues contained in FIPUG's Petition to Intervene.

Respectfully submitted,

By: 

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**CERTIFICATE OF SERVICE**

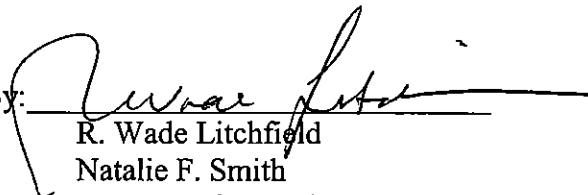
I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by electronic mail and United States Mail this 24th day of November, 2004, to the following:

Florida Public Service Commission  
Cochran Keating, Esquire  
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