

ORIGINAL

Timolyn Henry

From: John Butler [John.Butler@steelhector.com]
Sent: Monday, August 08, 2005 4:11 PM
To: Filings@psc.state.fl.us
Cc: jspina@akllp.com; kwiseman@akllp.com; msundback@akllp.com; gloriahalstead@andrewskurth.com; charlie_beck@comcast.net; dbmay@hklaw.com; lkollen@jkenn.com; sbaron@jkenn.com; schef@landersandparsons.com; Charles Beck; mclean.harold@leg.state.fl.us; mcwhirter@mac-law.com; tperry@mac-law.com; dbrown@mckennalong.com; Jeremy Susac; Katherine Fleming; Cochran Keating; miketwomey@talstar.com; craig.paulson@tyndall.af.mil
Subject: Re: Docket Nos. 050045-EI and 05188-EI
Attachments: FPL objections to document request (Davis).pdf

On behalf of Florida Power & Light Company ("FPL"), please accept for electronic filing in Docket Nos. 050045-EI and 050188-EI FPL's Objections to Portions of Document Requests Accompanying Notices of Deposition for K. Michael Davis. The objections total five pages.

A copy of this filing has been sent electronically to counsel for all parties of record.

Thank you for your assistance with filing.

Sincerely,

John T. Butler
Steel Hector & Davis LLP
Suite 4000
200 South Biscayne Boulevard
Miami, Florida 33131-2398
Tel.: 305-577-2939
Fax: 305-358-7336

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DOCUMENT NUMBER-DATE

07671 AUG-8 05

FPSC-COMMISSION CLERK

ORIGINAL

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for rate increase by)
Florida Power & Light Company.)
_____)

Docket No. 050045-EI

In re: 2005 comprehensive depreciation)
study by Florida Power & Light Company.)
_____)

Docket No. 050188-EI

Filed: August 8, 2005

**OBJECTIONS OF FLORIDA POWER & LIGHT COMPANY
TO PORTIONS OF DOCUMENT REQUESTS ACCOMPANYING
NOTICES OF DEPOSITION FOR K. MICHAEL DAVIS**

Florida Power & Light Company ("FPL") hereby objects for the reasons set forth below to Public Counsel's Cross-Notice of Telephonic Depositions, filed July 29, 2005, FIPUG's Cross-Notice of Telephonic Depositions, filed July 29, 2005, the South Florida Hospital and Healthcare Association's ("SFHHA") Cross Notice of Telephonic Depositions, dated July 29, 2005, and the Florida Retail Federation's ("FRF") Cross-Notice of Telephonic Depositions, dated July 29, 2005, with respect to the directions contained therein for K. Michael Davis to bring to his deposition copies of "all work papers or other materials used by the witness ... in preparation of responses to ['Staff's,' in the case of the Public Counsel, SFHHA and FRF notices, and 'FIPUG's,' in the case of FIPUG's notice] discovery requests in this docket."

The above-quoted document requests are overly broad and unduly burdensome. As FPL's Vice President, Controller and Chief Accounting Officer and FPL's principal accounting witness in these dockets, Mr. Davis has been identified as the sponsor of FPL's responses to well over a hundred Staff and FIPUG discovery requests. The work papers and other supporting materials for those responses are extremely voluminous and located throughout FPL's operations. Identifying and gathering all of those materials would be a Herculean task.

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07671 AUG-8 05

FPSC-COMMISSION CLERK

The burden of identifying and gathering the requested materials is greatly exacerbated by the short time FPL has been given to do so. The deposition notices were served on FPL on July 29 for a deposition on August 9, leaving only about five or six business days to complete this burdensome task. This contrasts sharply with the thirty days that parties are allowed by the Order Establishing Procedure in this proceeding (Order No. PSC-05-0347-PCO-EI, dated March 31, 2005) and Rule 1.350 of the Florida Rules of Civil Procedure to respond to requests for production of documents. To protect against this sort of abuse and circumvention of the discovery process, Rule 1.310 of the Florida Rules of Civil Procedure recognizes that, when a party seeks to have documents produced at a deposition, the requirements of Rule 1.350 (including the allowed period to respond) applies. Public Counsel, SFHHA, FRF and FIPUG have failed to comply with these requirements.

Finally, Public Counsel's, SFHHA's, FRF's and FIPUG's directions to Mr. Davis violate the August 10, 2005 discovery cut-off set in the Order Establishing Procedure. As noted above, FPL is entitled to thirty days to respond to document production requests, whether or not they are made in conjunction with a deposition. The documents supporting discovery responses that Public Counsel, SFHHA, FRF and FIPUG have directed Mr. Davis to bring to his deposition would not be due until August 27, 2005 at the earliest, which is well beyond the discovery cut-off.

Staff's original Notice of Telephonic Deposition, dated July 28, 2005, also asked that Mr. Davis bring to his deposition "all work papers or other materials used by the witness ... in preparation of responses to Staff's discovery requests in this docket." However, Staff counsel Cochran Keating advised FPL by e-mail last week that Staff needed Mr. Davis to bring only a small and manageable group of documents to his deposition. With the understanding that the

request in Staff's Notice of Telephonic Deposition is limited to that group of documents, FPL is not objecting at this time to Staff's request.

Respectfully submitted this 8th day of August, 2005.

R. Wade Litchfield, Esq.
Associate General Counsel
Florida Power & Light Company
700 Universe Boulevard
Juno Beach, Florida 33408-0420
Telephone: 561-691-7101

Steel Hector & Davis LLP
Attorneys for Florida Power & Light
Company
200 South Biscayne Boulevard
Suite 4000
Miami, Florida 33131-2398
Telephone: 305-577-2939

By: _____


John T. Butler
Fla. Bar No. 283479

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Objections has been furnished electronically and by United States Mail this 8th day of August, 2005, to the following:

Wm. Cochran Keating, IV, Esquire
Katherine E. Fleming, Esquire
Jeremy Susac, Esquire
Florida Public Service Commission
Division of Legal Services
Gerald L. Gunter Building
2540 Shumard Oak Blvd.
Tallahassee, FL 32399-0850

Harold A. McLean, Esquire
Charles J. Beck, Esquire
Office of Public Counsel
c/o The Florida Legislature
111 W. Madison Street, Room 812
Tallahassee, FL 32399-1400

John W. McWhirter, Esquire
c/o McWhirter Reeves, P.A.
400 North Tampa Street, Suite 2450
Tampa, Florida 33602
Attorneys for the Florida Industrial Power
Users Group

Timothy J. Perry, Esquire
McWhirter Reeves, P.A.
117 South Gadsden Street
Tallahassee, Florida 32301
Attorneys for the Florida Industrial Power
Users Group

Miami-Dade County Public Schools *
c/o Jaime Torrens
Dist. Inspections, Operations and
Emergency Mgt.
1450 N.E. 2nd Avenue
Miami, Florida 33132

D. Bruce May, Jr., Esquire *
Holland & Knight, LLP
Post Office Drawer 810
Tallahassee, Florida 32302-0810
Attorneys for Miami-Dade County Public
Schools

David Brown, Esquire
McKenna Long & Aldridge LLP
One Peachtree Center
303 Peachtree Street, N.E., Suite 5300
Atlanta, Georgia 30308
Attorneys for The Commercial Group

Michael B. Twomey, Esquire
P.O. Box 5256
Tallahassee, Florida 32314-5256
Attorney for AARP

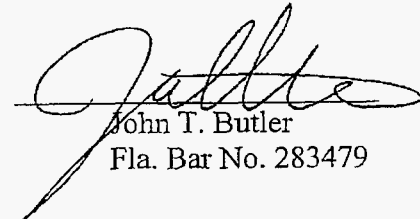
Robert Scheffel Wright, Esquire
John T. LaVia, III, Esq.
Landers & Parsons, P.A.
310 West College Avenue
Tallahassee, Florida 32301
Attorneys for Florida Retail Federation

Major Craig Paulson, Esquire
AFCESA/ULT
139 Barnes Drive
Tyndall Air Force Base, Florida 32403
Attorney for Federal Executive Agencies

Mark F. Sundback, Esquire
Kenneth L. Wiseman, Esquire
Gloria J. Halstead, Esquire
Jennifer L. Spina, Esquire
Andrews & Kurth LLP
1701 Pennsylvania Avenue, NW
Suite 300
Washington, D.C. 20006
Attorneys for South Florida Hospital
and Healthcare Association

Mr. Stephen J. Baron
Mr. Lane Kollen
J. Kennedy Associates, Inc.
570 Colonial Park Drive
Suite 305
Roswell, GA 30075
Consultants for South Florida Hospital and
Healthcare Association

By:



John T. Butler
Fla. Bar No. 283479

* Indicates interested party