

VOTE SHEET

April 18, 2006

Docket No. 050890-EI – Complaint of Sears, Roebuck and Company against Florida Power & Light Company and motion to compel FPL to continue electric service and to cease and desist demands for deposit pending final decision regarding complaint.

Issue 1: Should Sears' motion for an order compelling FPL to continue electric service and to cease demands for a deposit, or Sears' renewal of its motion for an order to compel, be granted?

Recommendation: No. FPL has complied with the requirements of Rule 25-22.032, Florida Administrative Code. The Commission needs not rule on Sears' requests as they are moot.

APPROVED

Issue 2: Should FPL's motion to dismiss Sears' complaint be granted?

Recommendation: No. Sears' complaint states a sufficient factual basis to survive a motion to dismiss, and FPL's motion should accordingly be denied.

APPROVED

COMMISSIONERS ASSIGNED: All Commissioners

COMMISSIONERS' SIGNATURES

MAJORITY

DISSENTING

Katrina A. I...
J. ...
...
...

REMARKS/DISSENTING COMMENTS:

DOCUMENT NUMBER-DATE

03407 APR 18 06

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Issue 3: What is the appropriate disposition of Sears' complaint against FPL?

Recommendation: Sears' complaint should be dismissed on its merits. FPL has complied with the requirements of Rule 25-6.097, Florida Administrative Code; accordingly, within 30 days of the date of the order, Sears should pay a deposit in the amount of \$1,002,705, either in the form of an Irrevocable Letter of Credit, a Surety Bond, or cash.

APPROVED

Issue 4: Should this docket be closed?

Recommendation: If no person whose substantial interests are affected by the proposed agency action files a protest within 21 days of the issuance of the order, this docket should be closed upon the issuance of a consummating order.

APPROVED