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September 24, 2010

Ms. Ann Cole, Director  
 Division of the Commission Clerk and Administrative Services  
 Florida Public Service Commission  
 2540 Shumard Oak Blvd.  
 Tallahassee, Florida 32399-0850

Re: Docket No. 100009-EI, Nuclear Cost Recovery Clause

Dear Ms. Cole:

I am writing on behalf of Florida Power & Light Company (FPL) in response to a letter filed by Thomas Saporito in the above-referenced docket dated September 22, 2010. Saporito has also filed other numerous claims and allegations against FPL over the past 22 years, none of which have been substantiated by any agency.

As to Saporito's credibility, the Commission should consider the following:

1. Saporito's employment with FPL was terminated for cause *in 1988* for multiple acts of insubordination, and he has been attempting to litigate and re-litigate the termination of his employment in multiple fora ever since. A U.S. Department of Labor (DOL) Administrative Law Judge (ALJ) ruled in a written decision that FPL's termination of Saporito's employment in 1988 was justified because there was "overwhelming" evidence that Saporito was repeatedly insubordinate, "insolent," "*blatantly lied*" and "*clearly lied*" to management, and engaged in a "mockery of management's role."<sup>1</sup>
2. In the timeframe immediately following the 1988 termination, Saporito filed four nuclear whistleblower discrimination complaints against FPL – all of

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<sup>1</sup> Saporito v. Florida Power & Light Co., 1989-ERA-007, 1989-ERA-017 (ALJ Oct. 15, 1997, *aff'd*, DOL Administrative Review Board ("ARB") Case No. 98-008 (Aug. 11, 1998); *aff'd sub nom Saporito v. DOL*, 192 F.3d 130 (11th Cir. 1999) (*per curiam*), *reh'g en banc denied*, 210 F.3d 395 (11th Cir. 2000) (unpublished table decision); *see also Saporito v. Florida Power & Light Co.*, ARB Case No. 04-079 (Dec. 17, 2004); *aff'd sub nom, Saporito v. DOL*, No. 05-10749-DD slip op. (11<sup>th</sup> Cir. June 2, 2005), *reh'g denied*, slip op. (11<sup>th</sup> Cir. July 21, 2005), *cert. denied*, slip op. (Jan. 23, 2006). The DOL decisions regarding Saporito's numerous claims of discrimination are available at <http://www.oalj.dol.gov>.

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which were dismissed. Saporito v. Florida Power & Light Co., 1990-ERA-027, -047 (Sec'y Aug. 8, 1994); Saporito v. Florida Power & Light Co., 1993-ERA-023 (Sec'y Sept. 7, 1995); Saporito v. Florida Power & Light Co., 1994-ERA-035 (ARB Jul. 19, 1996) (complaint dismissed by the ARB as "frivolous"); Saporito v. Florida Power & Light Co., 2006-ERA-008 (ALJ Mar. 24, 2006) (voluntarily dismissed).

3. Saporito currently has *seven* pending federal nuclear whistleblower discrimination complaints pending against FPL – six of these complaints were dismissed by the investigating agency (DOL's Occupational Safety and Health Administration (OSHA)) and by an ALJ, and Saporito has appealed all six dismissals to the DOL ARB. The seventh complaint was recently served on FPL and is under review by OSHA.
4. Saporito has also filed numerous petitions with the U.S. Nuclear Regulatory Commission seeking enforcement action against FPL. All of these petitions have been denied.
5. Saporito appeared as a witness in another whistleblower discrimination case. In that case the ALJ found that Saporito's testimony was "not credible" and that evidence sponsored by Saporito "may have been fabricated entirely." Dysert v Florida Power Corp., 1993-ERA-21 (ALJ June 3, 1994), *aff'd*, (Sec'y Aug. 7, 1995), *aff'd sub nom*, Dysert v. U.S. Secretary of Labor, 105 F.3d 607 (11th Cir. 1997).
6. Saporito has filed numerous other meritless whistleblower discrimination complaints against other respondents. Saporito v. Asplundh Tree Expert Co., 2005-CAA-00013 (ALJ Mar. 15, 2006); Saporito v. GE Medical Systems et al, 2003-CAA-00001/00002 (ALJ Oct. 15, 2004) (ARB issued Final Decision and Order Approving Settlement and Dismissing Complaint May 24, 2005). Saporito v. Publix Super Markets, Inc., 2010-CPS-00001 (ALJ Mar. 5, 2010) (approving award of attorney's fees against Saporito because complaint was filed in "bad faith").

Sincerely yours,



*for* Mitchell S. Ross

cc: S. Curtis Kiser  
Counsel for Parties of Record