

Marguerite McLean

100312-EI
100175-TL

From: REDACTED
Sent: Tuesday, October 12, 2010 9:03 AM
To: Filings@psc.state.fl.us
Attachments: 1012FPSC.docx

Attached is "1012FPSC" .doc file.

Efforts by Commission Staff to redact personal information from (internet) files are appreciated.

1. REDACTED used for outgoing emails; 2. 100312-EI, 100175-TL Emergency Notice about 10/12/10 Regular Agenda; 3. ; 4. 4;
5. Petitioner addresses whether 10/12/10 Regular Agenda proceeds and 9/30/10 faulty Memorandum.

s/ REDACTED

DOCUMENT NUMBER DATE

08502 OCT 12 2010

FPSC-COMMISSION CLERK

10/12/2010

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

COVER SHEET

DATE: October 12, 2010

TO: Ann Cole, Clerk
Office of Commission Clerk

FROM: [REDACTED] *Petitioner*

RE: 10/12/10 Regular Agenda

SPECIAL REQUEST: May Office of Commission Clerk stamp upon receipt and immediately distribute the attached Emergency Notice about 10/12/10 Regular Agenda to all Commissioners, Staff authors of 9/30/10 Memorandum and all Parties in Dockets100175-TL and 100312-EI.

DOCUMENT NO. DATE
08502-10 10, 12/10
FPSC - COMMISSION CLERK

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

EMERGENCY NOTICE ABOUT 10/12/10 REGULAR AGENDA

Complaint against AT&T et. al

Docket 100175-TL

Complaint against Florida Power and Light Company et. al

Docket 100312-EI

To date, Staff have communicated no decision to Petitioner about whether 10/12/10 Regular Agenda shall proceed, and no information e.g. Scheduled time and direct phone number that Petitioner may call to participate in Agenda should it commence.

Therefore, this communication is intended to shed light on the faulty September 30, 2010 Memorandum. Should Commissioners intend to pursue Regular Agenda as planned and address all elements of the faulty Memorandum, may Petitioner receive Order prior to start of Agenda.

Petitioner is yet to receive Respondent AT&T's Motion Response in Opposition to Motion to Suspend.

On June 10, 2010 Catherine Beard and Larry Harris notified Petitioner that Commissioners prefer to address at a single hearing a Petitioner's complaints about similar issues; therefore Staff would make the recommendation that regarding Dockets 100175-TL and 100312-EI, Commissioners decide at an upcoming informal and/or formal hearing whether Petitioner's complaints are to be affirmed.

On September 2, 2010 Respondent Florida Power and Light Company (FPL) moved to remove Commissioner Nathan Skop from participation in any FPL docket. On September 22, 2010 FPL specified its motion pertained also to Docket 100312-EI.

DOCUMENT NO. DATE

0850240 10/12/10
FPSC - COMMISSION CLERK

On October 8, 2010 in its Response to Petitioner's Motion to Suspend 10/12/10 Regular Agenda Pending Clarification of the issues above, FPL reversed its position about involvement by Commissioner Skop with no basis for its sudden decision change. FPL is inaccurate regarding notice to Petitioner. Initial notice Petitioner received on October 4, 2010, about content of Staff's Recommendations and Commissioners' consideration of the Complaints, is not substantial notice.

FPL admits it is unaware of the factual inaccuracies in September 30, 2010 Commission Memorandum. Of the many Staff misstatements: Under Staff Analysis, Paragraph 1, page 6 "This Complaint is based upon Petitioner's belief...". Under Staff Analysis, Paragraph 1, page 11 "...Petitioner's complaint is based in her belief ...". In fact Petitioner has repeatedly stated, including during conversation with Ms. Beard and Mr. Harris that Petitioner's belief is not important rather Petitioner looks to the law.

Additionally the law does not state "Customers should be free from paying the tax obligations of AT&T..." Rather " AT&T, and not the customer, is responsible ..."

Staff is in error. While Commissioners may choose to decide on the merits determining substantial interests, Petitioner seeks Declaratory Statement according to 120.565, F.S.

With careful reading of Memorandum and Motion to Suspend et. al Petitioner's assertions and requests are clear. With no adverse comments by FPL about other issues Petitioner raised, there appears to be agreement that 1. Memorandum fails to meet Standard of Review, and 2. Staff Analysis shows contradictions.

1. To draft Memorandum Staff chose words that set a psychology tone that would favor AT&T and FPL, i.e. use of positive words with AT&T and FPL to encourage support, and use of negative or neutral words with Petitioner's arguments to combat them. Examples throughout Memorandum abound and form anchors for Staff analysis and accompanying federal code and statutory references:
 - a. Under Discussion of Issues, page 5, Motion to Dismiss, Staff states "In support thereof, AT&T advances the following arguments".

- b. Under Discussion of Issues, page 5, Petitioner's Response, Staff states "In opposing AT&T's Motion, Petitioner makes the following arguments".
- c. Under Discussion of Issues, page 9, Petitioner's FPL Complaint, Staff states "Petitioner makes the following assertions"
- d. Under Discussion of Issues, page 9, Motion to Dismiss, Staff states "FPL timely responded to the Complaint ... In support of its requested relief, FPL
- e. Under Discussion of Issues, page 10, Petitioner's Response, Staff states "Petitioner filed a Response in opposition..."

To consider the allegations in the light most favorable to Petitioner, redrafting of Memorandum and restatement of the issues is suggested as follows:

- a. Issue 1: Should AT&T's Motion to Dismiss be Denied?
 - b. Issue 2: Should Florida Power and Light Company's Motion to Dismiss be denied?
 - c. Staff would equally remove all negative presumptions about Petitioner statements in the same manner that Staff removed certain observations for Respondents, e. g. Staff omitted that FPL Motion to Dismiss "is extremely similar" and "very closely mirrors" AT&T Motion to Dismiss.
 - d. Staff would elaborate on research it engaged into the substance of Petitioner's allegations, out of concern for circumstances.
2. Staff admits Commission jurisdiction under Sections 364 and 366, F.S. and that Commission lacks jurisdiction to interpret, enforce and otherwise determine federal and state law outside of aforementioned sections F.S. Staff then sets about in numerous paragraphs of Memorandum on pages, 7, 8, 11 & 12, elaborating on staff beliefs and opinions about federal and state law outside of Commission jurisdiction, in a manner least favorable to Petitioner.

Therefore, given fault with Memorandum Petitioner seeks that correction of it is ordered, and all supporting documents are filed as is proper, pending Order by Commissioners, and that this notice is read and entered into record.

Oct. 12, 2010 By: /s/ [REDACTED]
Petitioner