

**Shawna Senko**

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**From:** Moncada, Maria <Maria.Moncada@fpl.com>  
**Sent:** Thursday, October 10, 2013 1:11 PM  
**To:** Filings@psc.state.fl.us  
**Subject:** Electronic Filing / Dkt 130007-EI / Florida Power & Light Company's Response To Intervenor's Motion For Leave To File Surrebuttal Testimony And Motion To Establish Separate "Spin-Off" Docket  
**Attachments:** Docket 130007-EI Response To Intervenor Motion To Establish Spin-Off Docket and File Surrebuttal.DOCX; Docket 130007-EI Response To Intervenor Motion To Establish Spin-Off Docket and File Surrebuttal.pdf

Electronic Filing

a. Person responsible for this electronic filing:

Maria J. Moncada, Esq.  
Florida Power & Light Company  
700 Universe Boulevard  
Juno Beach, FL 33408  
561-304-5795  
[Maria.Moncada@fpl.com](mailto:Maria.Moncada@fpl.com)

b. Docket No. 130007 – EI  
In re: Environmental Cost Recovery Clause

c. The Document is being filed on behalf of Florida Power & Light Company.

d. There are a total of 6 pages

e. The document attached for electronic filing is Florida Power & Light Company's Response To Intervenor's Motion For Leave To File Surrebuttal Testimony and Motion To Establish Separate "Spin-Off" Docket.

Maria J. Moncada, Esq.  
Florida Power & Light Company  
700 Universe Boulevard  
Juno Beach, FL 33408  
561-304-5795  
[Maria.Moncada@fpl.com](mailto:Maria.Moncada@fpl.com)

**BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

IN RE: Environmental Cost Recovery Clause

Docket No: 130007-E1

Date: October 10, 2013

**FLORIDA POWER & LIGHT COMPANY'S RESPONSE TO  
INTERVENORS' MOTION FOR LEAVE TO FILE SURREBUTTAL  
TESTIMONY AND MOTION TO ESTABLISH SEPARATE "SPIN-OFF" DOCKET**

Florida Power & Light Company, pursuant to Rule 28-106.204, Florida Administrative Code (2013), submits this response to DeSoto County Generating Company, LLC's ("DeSoto") and Office of Public Counsel's ("OPC") Motion for Leave To File Surrebuttal Testimony and the Florida Industrial Power Users Group's ("FIPUG") Motion To Establish Separate "Spin-Off" Docket To Examine FPL's Petition To Replace Existing Peaking Gas Turbines with New Combustion Turbine Equipment (DeSoto, OPC and FIPUG are collectively referred to as the "Intervenors"). FPL states as follows:

1. On June 28, 2013, FPL filed a Petition for Approval of Environmental Cost Recovery associated with its NO<sub>2</sub> compliance project, along with the testimony of five witnesses in support of the Petition. In short, the Environmental Protection Agency ("EPA") has established a 1-hour human health-based standard for NO<sub>2</sub> emissions at a level of 100 parts per billion. Earlier this year, the Florida Department of Environmental Protection ("DEP") confirmed to EPA its authority to implement the new 1-hour NO<sub>2</sub> standard. FPL became aware that the gas turbines located at the FPL's Ft. Myers, Lauderdale and Port Everglades power plants, which operate only at certain times to serve peak demands, will cause or contribute to emission concentrations in excess of the 1-hour NO<sub>2</sub> standard. To reduce NO<sub>2</sub> emissions to levels that will not cause exceedances of that standard, FPL proposes to modify the existing peaking unit technology with the installation of high-efficiency, low-emitting combustion turbines. FPL's evaluations show that this is the lowest cost option to meet the standard.

2. On September 13, 2013, FIPUG served direct testimony in opposition to FPL's Petition. On September 14, 2013, DeSoto served direct testimony of two witnesses in opposition to FPL's Petition. OPC adopted the testimony of DeSoto's witnesses. FPL filed its rebuttal testimony on September 28, 2013, only two weeks after receiving DeSoto's testimony.

3. DeSoto and OPC now jointly seek leave to file surrebuttal to address additional economic evaluations presented in FPL's rebuttal testimony. DeSoto and OPC have asked the Commission to establish October 21, 2013 as the deadline to file surrebuttal. Additionally, FIPUG has requested that FPL's Petition be spun off into a separate docket.

4. FIPUG's request for a spinoff should be denied. A separate docket and protracted testimony schedule are unnecessary to address the Intervenors' concerns, and may instead cause delays and inefficiencies. Moreover, leave to file surrebuttal testimony should not be granted unless such testimony is strictly limited to addressing the additional economic evaluations presented in FPL witness Enjamio's rebuttal testimony and appropriate provisions are made for FPL discovery regarding the surrebuttal testimony.

5. FPL proposes a less disruptive process that will accommodate the Intervenors' asserted need for additional information and time to prepare for hearing. FPL has conferred with the Intervenors about the proposal below and understands that they support it.

6. FPL proposes that the hearing remain in Docket No. 130007-EI and remain subject to the schedule set for that docket, with the limited exceptions discussed below. FPL does not object to the hearing on the NO<sub>2</sub> Compliance Project being deferred so long as it is scheduled to conclude no later than November 27, 2013. FPL and the Intervenors prefer the week of November 18-22, 2013.

7. FPL does not object to the Intervenors filing surrebuttal testimony if it is subject to the following conditions:

- The surrebuttal testimony may address only FPL's new economic evaluations that are reflected in FPL witness Enjamio's rebuttal testimony, which compare available compliance alternatives including buying the DeSoto facility or purchasing power from it.
- Surrebuttal testimony must be filed no later than October 21, 2013 and shall be served on FPL electronically at the same time that it is filed.
- Because the proposed filing date will occur after the prehearing conference, FPL reserves the right to revise its position on Issues 10, 10A-10C, and 11 after the prehearing conference as required to address the surrebuttal testimony.
- Solely with respect to FPL discovery addressing the surrebuttal testimony, FPL proposes that the discovery deadline be extended to November 15, 2013, with responses required to be served electronically within seven days after the discovery requests are received.



WHEREFORE, FPL respectfully requests that the Commission deny the Intervenors' motions and instead adopt the above-described schedule for proceeding to hearing on the NO<sub>2</sub> Compliance Project.

Respectfully submitted,

John T. Butler  
Assistant General Counsel – Regulatory  
Maria J. Moncada  
Principal Attorney  
Florida Power & Light Company  
700 Universe Boulevard  
Juno Beach, FL 33408  
Telephone: (561) 304-5795  
Facsimile: (561) 691-7135  
Email: maria.moncada@fpl.com

By: s/ Maria J. Moncada  
Maria J. Moncada  
Fla. Bar No. 0773301

**CERTIFICATE OF SERVICE**

**Docket No. 130007-EI**

**I HEREBY CERTIFY** that a true and correct copy of the foregoing Florida Power & Light Company's Response To Intervenors' Motion For Leave To File Surrebuttal Testimony And Motion To Establish Separate "Spin-Off" Docket has been furnished by electronic mail and United States Mail this 10th day of October, 2013 to the following:

Charles Murphy, Esq.  
Division of Legal Services  
Florida Public Service Commission  
2540 Shumard Oak Blvd.  
Tallahassee, Florida 32399-0850  
cmurphy@psc.state.fl.us

James D. Beasley, Esq.  
J. Jeffrey Wahlen, Esq.  
Ashley M. Daniels, Esq.  
Ausley & McMullen  
P.O. Box 391  
Tallahassee, Florida 32302  
jbeasley@ausely.com  
jwahlen@ausley.com  
Attorneys for Tampa Electric

Jeffrey A. Stone, Esq.  
Russell A. Badders, Esq.  
Steven R. Griffin, Esq.  
Beggs & Lane  
501 Commendencia Street  
Pensacola, Florida 32502  
jas@beggslane.com  
rab@beggslane.com  
srg@beggslane.com  
Attorneys for Gulf Power

Gary V. Perko, Esq.  
Hopping Green & Sams  
P.O. Box 6526  
Tallahassee, FL 32314  
garyp@hgslaw.com  
Attorneys for Progress Energy Florida

J. R. Kelly, Esq.  
Patricia Christensen, Esq.  
Charles Rehwinkel, Esq.  
Office of Public Counsel  
c/o The Florida Legislature  
111 W Madison St. Room 812  
Tallahassee, FL 32399-1400  
kelly.jr@leg.state.fl.us  
christensen.patty@leg.state.fl.us  
rehwinkel.charles@leg.state.fl.us

John T. Burnett, Esq.  
Dianne Triplett, Esq.  
Progress Energy Service Company, LLC  
P.O. Box 14042  
St. Petersburg, Florida 33733-4042  
john.burnett@pgnmail.com  
dianne.triplett@pgnmail.com  
Attorneys for Progress

Jon C. Moyle, Esq.  
Moyle Law Firm, P.A.  
118 N. Gadsden St.  
Tallahassee, FL 32301  
jmoyle@moylelaw.com  
Co-Counsel for FIPUG

James W. Brew, Esq.  
F. Alvin Taylor, Esq.  
1025 Thomas Jefferson St., NW  
Eighth Floor, West Tower  
Washington, DC 20007  
jbrew@bbrslaw.com  
ataylor@bbrslaw.com  
Attorney for White Springs

Robert Scheffel Wright, Esq.  
John T. LaVia, III, Esq.  
Garner, Bist, Wiener, et al  
1300 Thomaswood Dr.  
Tallahassee, FL 32308  
schef@gbwlegal.com  
jlavia@gbwlegal.com  
Attorneys for DeSoto County Generating  
Company, LLC

By: s/ Maria J. Moncada  
Maria J. Moncada  
Fla. Bar No. 0773301