

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for prudence determination
regarding new pipeline system by Florida
Power & Light Company.

DOCKET NO. 130198-EI
ORDER NO. PSC-13-0651-PCO-EI
ISSUED: December 9, 2013

ORDER DENYING MOTION TO LATE FILE

On October 28, 2013, the Commission issued a Proposed Agency Action, Order No. PSC-13-0505-PAA-EI, on the proposed Sabal Trail Transmission, LLC (Sabal Trail) and Florida Southeast Connection Pipelines to be constructed to meet Florida Power & Light Company's (FPL)'s gas transmission needs. On November 15, 2013, a Petition for Formal Evidentiary Proceeding Based on Disputed Issues of Fact was filed by Beth M. Gordon, Arlene Bell, Freddie Bell, Mian J. Matvejs, and Gertrude C. Dickinson, hereinafter "Petitioners."

On November 20, 2013, FPL filed a Motion to Dismiss the Protest. On December 4, 2013, the Petitioners late-filed a Response to FP&L's Motion to Dismiss (Response to Motion to Dismiss). On December 6, 2013, the Petitioners filed a Motion to File Petitioners' Response to FP&L's Motion to Dismiss Out of Time, Nunc Pro Tunc, stating that counsel failed to "properly diary the administrative response date to the Motion to Dismiss." The Petitioners state that a late response of one week does not prejudice FPL but a failure to consider their Response would be prejudicial to the Petitioners because of the safety and environmental concerns raised by the Petitioners. The Petitioners further state that pursuant to Rule 28-106.204(3), an attempt to contact counsel for FPL was made but was unsuccessful.

The Petitioners had seven days after FPL's filing of its Motion to Dismiss, filed on November 20, 2013, to timely file a response in opposition. Instead, the Petitioners filed a response seven days after the deadline. In addition, the Petitioners waited to file their Motion to Late File two days later. In order for a Motion for a late filed response to be considered, Rule 28-106-204(4), provides that "motions for extensions of time shall be filed prior to the expiration of the deadline sought to be extended and shall state good cause for the request." The Petitioners state that they did not calendar the administrative response date. I find it appropriate to deny the Motion to Late File as the Petitioners failed to request an extension of the deadline prior to its expiration and did not provide good cause for the request. Therefore, I find it appropriate that the Response to the Motion to Dismiss shall not be considered.

By ORDER of Commissioner Art Graham, as Prehearing Officer, this 9th day of
December, 2013.



ART GRAHAM
Commissioner and Prehearing Officer
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Copies furnished: A copy of this document is provided to the parties of record at the time of issuance and, if applicable, interested persons.

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NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

Mediation may be available on a case-by-case basis. If mediation is conducted, it does not affect a substantially interested person's right to a hearing.

Any party adversely affected by this order, which is preliminary, procedural or intermediate in nature, may request: (1) reconsideration within 10 days pursuant to Rule 25-22.0376, Florida Administrative Code; or (2) judicial review by the Florida Supreme Court, in the case of an electric, gas or telephone utility, or the First District Court of Appeal, in the case of a water or wastewater utility. A motion for reconsideration shall be filed with the Office of Commission Clerk, in the form prescribed by Rule 25-22.0376, Florida Administrative Code. Judicial review of a preliminary, procedural or intermediate ruling or order is available if review of the final action will not provide an adequate remedy. Such review may be requested from the appropriate court, as described above, pursuant to Rule 9.100, Florida Rules of Appellate Procedure.