

Matilda Sanders

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Sent: Thursday, January 06, 2005 4:22 PM  
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Subject: Electronic Filing for Docket No. 041291-EI / FPL's Response to Petition to Intervene



FPL's Response  
) Twomey's Pet.

Electronic Filing

a. Person responsible for this electronic filing:

R. Wade Litchfield  
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b. Docket No. 041291-EI

In re: Petition for authority to recover prudently incurred storm restoration costs related to 2004 storm season that exceed storm reserve balance, by Florida Power & Light Company.

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

d. There are a total of 3 pages.

e. The document attached for electronic filing is Florida Power & Light Company's Response to Petition to Intervene (See attached file: FPL's Response to Twomey's Petition to Intervene.1.6.05.doc)

Thank you for your attention and cooperation to this request.

- CMP \_\_\_\_\_
- COM 5
- CTR \_\_\_\_\_
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- OPC \_\_\_\_\_
- MMS \_\_\_\_\_
- RCA \_\_\_\_\_
- SCR \_\_\_\_\_
- SEC 1
- OTH \_\_\_\_\_

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Florida Power & Light Company  
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DOCUMENT NUMBER-DATE  
00221 JAN-6 05  
FPSC-COMMISSION CLERK

BEFORE THE  
FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for authority to recover )  
prudently incurred storm restoration costs )  
related to 2004 storm season that exceed )  
storm reserve balance, by Florida Power & )  
Light Company. )  
\_\_\_\_\_ )

Docket No: 041291-EI

Filed: January 6, 2005

**FLORIDA POWER & LIGHT COMPANY'S  
RESPONSE TO PETITION TO INTERVENE**

NOW, BEFORE THIS COMMISSION, through undersigned counsel, comes Florida Power & Light Company ("FPL" or the "Company"), and pursuant to Rule 28-106.204(1), Florida Administrative Code, files this Response to the Petition to Intervene filed December 30, 2004 on behalf of Thomas P. Twomey and Genevieve E. Twomey ("Petition to Intervene"), and in support states:

1. FPL does not object to Mr. and Mrs. Twomey's participation as a party in Docket No. 041291-EI. FPL disagrees, however, with certain of their alleged issues as irrelevant and, therefore, inappropriate for inclusion in this docket. In particular, FPL disagrees with the following disputed issues of material fact alleged by Mr. and Mrs. Twomey:

- f. Should all or some of FPL's storm-related costs be absorbed through base rates?
- g. What ROE should be applicable to FPL?

See Petition to Intervene at ¶ 7. Further, FPL disagrees with the following disputed legal issue asserted on behalf of the Twomeys:

- c. Is FPL entitled to any recovery if it cannot prove it is earning below its authorized ROE?

See id. at ¶ 8.

2. As support for its arguments in this Response, FPL incorporates by reference the arguments included in its Response to FIPUG and OPC's Joint Motion to Dismiss FPL's Petition filed November 24, 2004 in this docket. Further, FPL reserves its right to allege what it believes to be the appropriate issues for the Commission's consideration in this docket and the right to object to these and any additional issues raised by the Twomeys.

3. Mr. and Mrs. Twomey and their counsel should take the case as they find it. Further, their representation in this matter should be held to the same rules of procedure applicable to other parties.

**WHEREFORE**, for the above and foregoing reasons, Florida Power & Light Company respectfully requests that the Commission reject certain of the alleged issues contained in Mr. and Mrs. Twomey's Petition to Intervene and that their intervention be subject to the conditions set forth above and such other conditions as the Commission may deem appropriate.

Respectfully submitted,

By: s/ R. Wade Litchfield  
R. Wade Litchfield  
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Company  
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**CERTIFICATE OF SERVICE**

**I HEREBY CERTIFY** that a true and correct copy of the foregoing has been furnished by electronic mail and United States Mail this 6<sup>th</sup> day of January, 2005, to the following:

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