

**Matilda Sanders**

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**From:** Elizabeth\_Carrero@fpl.com  
**Sent:** Friday, January 28, 2005 8:57 AM  
**To:** Filings@psc.state.fl.us  
**Cc:** Wade\_Litchfield@fpl.com; Natalie\_Smith@fpl.com; John\_Hepokoski@fpl.com;  
Lynne\_Adams@fpl.com; Nanci\_Nesmith@fpl.com; Bill\_Feaster@fpl.com;  
Sabrina\_Spradley@fpl.com  
**Subject:** Electronic Filing for Docket No. 041291-EI/ FPL's Objections to Office of Public Counsel's  
Second Amended Notice of Deposition of K. Michael Davis and Corporate Representative



Objections  
C's Amended  
Electronic Filing

a. Person responsible for this electronic filing:

Natalie F. Smith, Attorney  
Florida Power & Light Company  
700 Universe Blvd.  
Juno Beach, FL 33408  
(561) 691-7207  
natalie\_smith@fpl.com

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 4 pages.

e. The document attached for electronic filing is Florida Power & Light Company's Objections to Office of Public Counsel's Second Amended Notice of Deposition of K. Michael Davis and Corporate Representative

(See attached file: Objections to OPC's Amended Not of Dep of Davis & Corporate Rep.doc)

~~CMP~~ Thank you for your attention and cooperation to this request.

~~COM~~ \_\_\_\_\_  
Elizabeth Carrero  
~~CTB~~ Secretary to Natalie F. Smith, Esq.  
Florida Power & Light Company  
~~ECB~~ Telephone: (561) 691-7100  
Fax: (561) 691-7135

~~GCL~~ \_\_\_\_\_

~~OPC~~ \_\_\_\_\_

~~MMS~~ \_\_\_\_\_

~~RCA~~ \_\_\_\_\_

~~SCR~~ \_\_\_\_\_

~~SEC~~   1  

~~OTH~~ \_\_\_\_\_

DOCUMENT NUMBER-DATE

01012 JAN 28 03

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 28, 2005

**FLORIDA POWER & LIGHT COMPANY'S  
OBJECTIONS TO OFFICE OF PUBLIC COUNSEL'S  
SECOND AMENDED NOTICE OF DEPOSITION OF K. MICHAEL DAVIS  
AND CORPORATE REPRESENTATIVE**

Florida Power & Light Company ("FPL"), by and through its undersigned counsel and pursuant to Order No. PSC-04-1150-PCO-EI, the Order Establishing Procedure in the above-referenced docket, Rule 28-106.206, Florida Administrative Code, and Rules 1.190(e), 1.310(b)(5) and 1.350, Florida Rules of Civil Procedure, submits the following Objections to Office of Public Counsel's ("OPC") Notice of Deposition of K. Michael Davis and Corporate Representative filed January 21, 2005 in the above-referenced docket, Amended Notice of Deposition of K. Michael Davis and Corporate Representative filed January 25, 2005 in the above-referenced docket, and Second Amended Notice of Deposition of K. Michael Davis and Corporate Representative filed January 27, 2005 (collectively referred to as "Deposition Notice") in the above-referenced docket, and states as follows:

1. FPL objects to the Deposition Notice to the extent OPC requests Mr. Davis to bring documents to the January 28, 2005 deposition without complying with the time frames set forth in the Order Establishing Procedure for the production of documents. OPC asks Mr. Davis "to bring to the deposition his prefiled testimony and all documents and materials on which he relied in the preparation of the prefiled testimony." See Deposition Notice at 1. Rule 1.310(b)(5), Florida Rules of Civil Procedure, requires that requests for production of documents

at the taking of the deposition comply with the timeframes set forth for the production of documents, and OPC's Deposition Notice did not.

2. FPL objects to the extent the Deposition Notice calls for the production of documents protected by the attorney-client privilege, the work product doctrine, the accountant-client privilege, the trade secret privilege, or any other applicable privilege or protection afforded by law, whether such privilege or protection appears at the time response is first made or is later determined to be applicable for any reason. FPL in no way intends to waive such privilege or protection.

3. FPL objects to providing information that is proprietary, confidential business information without provisions in place to protect the confidentiality of the information. If the Deposition Notice calls for the disclosure of confidential information, FPL will either file a motion for protective order requesting confidential classification and procedures for protection or take other actions to protect the confidential information requested. FPL in no way intends to waive claims of confidentiality.

4. FPL objects to the Deposition Notice in that it seeks to obtain "all," documents relied upon by Mr. Davis on the grounds that compliance would impose an undue burden or expense on FPL.

5. FPL objects to providing information to the extent that such information is already in the public record before the Florida Public Service Commission and available to OPC through normal procedures.

6. FPL objects to the Deposition Notice to the extent it is vague, ambiguous, overly broad and imprecise.

7. FPL objects to Deposition Notice to the extent it calls for documents previously produced in response to requests for production in Docket No. 041291-EI.

Notwithstanding and without waiving its objections, Mr. Davis will bring certain documents to his deposition.

Respectfully submitted,

By: s/ Natalie F. Smith  
R. Wade Litchfield  
Natalie F. Smith  
Attorneys for Florida Power & Light  
Company  
700 Universe Boulevard  
Juno Beach, Florida 33408-0420

**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 28th day of January, 2005, to the following:

Wm. Cochran Keating, IV, Esq.  
Katherine E. Fleming, Esq.  
Florida Public Service Commission  
Gerald L. Gunter Building  
2540 Shumard Oak Boulevard  
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(McWhirter)  
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