

Matilda Sanders

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 Sent: Wednesday, March 30, 2005 2:34 PM
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 Subject: Electronic Filing for Docket No. 041291-EI/ FPL's Response to Petition to Intervene
 Attachments: FPL's Response to AARP's Petition to Intervene.doc



FPL's
 se to AARP's
 Electronic Filing

a. Person responsible for this electronic filing:

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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 AARP's Petition to Intervene.doc)

Thank you for your attention and cooperation to this request.

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DOCUMENT NUMBER-DATE
 03082 MAR 30 05
 FPSC-COMMISSIONER'S OFFICE

ORIGINAL

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: March 30, 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 March 29, 2005 on behalf of AARP ("Petition to Intervene"), and in support states:

1. FPL does not object to AARP'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 AARP:

- 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 ¶ 9. 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 ¶ 10.

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FPSC-COMMISSION CLERK

2. FPL agrees, however, with AARP, and other intervenors including the Twomeys and the Florida Industrial Power Users Group, who have asserted in their petitions to intervene that a determination of the reasonableness and prudence of costs for which recovery is sought is an appropriate issue of material fact. FPL agrees that such an issue is fundamental to the Commission's decision in this Docket. FPL notes for example the following issue raised by AARP in its intervention:

e. What is the amount of FPL's reasonably and prudently incurred storm-related costs?

See id. at ¶ 9.e. FPL notes that this issue is reflected on the issues list in Docket No. 041291-EI in issue No. 17

3. AARP and its counsel should take the case as they find it. Further, its 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 AARP'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/Natalie F. Smith
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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 30th day of March, 2005, to the following:

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