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 Sent: Thursday, March 31, 2005 12:50 PM  
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 Subject: Electronic Filing for Docket No. 050045-EI/ FPL's Response to Commercial Group's Petition to Intervene  
 Attachments: FPL's Response Commercial Group Pet. to Intervene.doc



FPL's  
 e Commercial  
 Electronic Filing

a. Person responsible for this electronic filing:

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b. Docket No. 050045-EI

In re: Petition for rate increase 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 Response to Commercial Group's Petition to Intervene.

(See attached file: FPL's Response Commercial Group Pet. to Intervene.doc)

Thank you for your attention and cooperation to this request.

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BEFORE THE  
FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for rate increase by )  
Florida Power & Light Company )  
\_\_\_\_\_ )

Docket No: 050045-EI

Filed: March 31, 2005

FLORIDA POWER & LIGHT COMPANY'S  
RESPONSE TO COMMERCIAL GROUP'S  
PETITION TO INTERVENE

NOW, BEFORE THIS COMMISSION, through undersigned counsel, comes Florida Power & Light Company ("FPL") and, pursuant to Rule 28-106.203, Florida Administrative Code, files its Response to the Commercial Group's Petition to Intervene ("Petition to Intervene") and states as follows:

1. On March 23, 2005, an attorney for "an ad hoc group of large commercial customers of Florida Power & Light Company" referred to as the Commercial Group filed a Petition to Intervene in Docket No. 050045-EI. The Petition to Intervene does not comply with Rule 25-22.039, Florida Administrative Code because it does not "conform with Uniform Rule 28-106.201(2)," nor does it "include allegations sufficient to demonstrate that the intervenor is entitled to participate in the proceeding as a matter of constitutional or statutory right or pursuant to Commission rule, or that the substantial interests of the intervenor are subject to determination or will be affected through the proceeding." See 25-22.039, Fla. Admin. Code (2004).

Therefore, the Commission should require Commercial Group to re-file its Petition to Intervene and comply with applicable Commission rules, the Uniform Rules of Procedure and Florida law.

2. In particular, the address and telephone number of the petitioner is not identified, which is inconsistent with Rule 28-106.201(2)(b). Rather, only the person who has asked to be accepted as a qualified representative of Commercial Group is adequately identified. Further, there is no demonstration that Commercial Group is entitled to participate in the proceeding or that its substantial interests will be affected, which is inconsistent with Rule 25-22.039 and Rule 28-106.201(2)(b). The Petition to Intervene merely provides a general description of the nature of the proceeding and alleges that Commercial Group “has an interest in this proceeding.” Such an allegation is insufficient to satisfy the well-established test for administrative standing in Florida as set forth in Agrico Chemical Co. v. Department of Environmental Protection, 406 So. 2d 478 (Fla. 2d DCA 1981). In addition, the Petition to Intervene is not sufficient to satisfy the test for associational standing articulated in Florida Home Builders Ass’n v. Dep’t of Labor and Employment Security, 412 So. 2d 351, 353-54 (Fla. 1982).

3. Further, nowhere in the Petition to Intervene does Commercial Group allege a number of other items that Rule 28-106.201 of the Florida Administrative Code requires a petition to include. For example, there is no statement of when or how the petitioner received notice of the agency action. See Rule 28-106.201(2)(c), Fla. Admin. Code. Also, there are no statements regarding disputed issues of fact, ultimate facts alleged, or facts or rules requiring reversal. See Rule 28-106.201(2)(d)-(f), Fla. Admin. Code. Finally, there is no statement of relief requested. See Rule 28-106.201(2)(g), Fla. Admin. Code. Though certain of these uniform rule requirements may seem trivial, they nonetheless have force and the Commission is directed to dismiss a petition that is not in substantial compliance with Rule 28-106.201(2). See Rule 28-106.201(4), Florida Administrative Code (2004).

**WHEREFORE**, for the above and foregoing reasons, Florida Power & Light Company respectfully requests that Commercial Group be required to refile its Petition to Intervene and attempt to comply with the applicable Commission rules, the Uniform Rules of Procedure and Florida law.

Respectfully submitted,

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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 by United States Mail this 31st day of March 2005, to the following:

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\*\* Indicates not an official party of record as of the date of this filing