

# ORIGINAL

**Timolyn Henry**

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**Sent:** Tuesday, August 09, 2005 2:02 PM  
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**Subject:** Electronic Filing for Docket Nos. 050045-EI & 050188-EI/FPL's Objections to Portions of Document Requests Accompanying Notices of Deposition for Rosemary Morley  
**Attachments:** Objections to Deposition Notice 8-9-05.DOC

a. Person responsible for this electronic filing:

Susan F. Clark  
 Florida Bar No. 0179580  
 Radey Thomas Yon & Clark, P.A.  
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b. Docket Nos. 050045-EI & 050188-EI

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

d. There are a total of 5 pages in the attached document.

e. The document attached for electronic filing is Florida Power & Light Company's Objections to Portions of Document Requests Accompanying Notices of Deposition for Rosemary Morley.

(See attached file: Objections to Deposition Notice 8-9-05.doc)

Thank you for your attention and cooperation to this request.

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- SEC**   1
- 8/9/2005** \_\_\_\_\_

DOCUMENT NUMBER-DA7

07721 AUG-9 2

FPSC-COMMISSION CLEF

## BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

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

Docket No. 050045-EI

In re: 2005 comprehensive depreciation )  
study by Florida Power & Light Company. )  
\_\_\_\_\_ )

Docket No. 050188-EI

Filed: August 9, 2005

### **OBJECTIONS OF FLORIDA POWER & LIGHT COMPANY TO PORTIONS OF DOCUMENT REQUESTS ACCOMPANYING NOTICES OF DEPOSITION FOR ROSEMARY MORLEY**

Florida Power & Light Company ("FPL") objects for the reasons set forth below to the Cross-Notices of Telephonic Depositions served by the Florida Industrial Power Users Group ("FIPUG") and the South Florida Hospital and Healthcare Association ("SFHHA") on July 29, 2005, and August 1, 2005, respectively. Specifically, FPL objects to the following directions for Rosemary Morley contained in the Cross-Notices:

- [Dr. Morley] should bring copies of all the work papers or other materials used by [Dr. Morley] in the preparation of testimony filed in this docket or used by the witness in the preparation of responses to FIPUG's discovery requests in this docket.

*See* FIPUG Cross-Notice of Telephonic Depositions at 2, July 29, 2005.

- [Dr. Morley] should bring copies of all the work papers or other materials used by [Dr. Morley] in the preparation of testimony filed in this docket or used by the witness in the preparation of responses to staff's discovery requests in this docket.

*See* SFHHA's Cross-Notice of Telephonic Depositions at 1, August 1, 2005.

The above-quoted document requests are overly broad and unduly burdensome. The documents covered by FIPUG's request represent hundreds of printed pages. The documents covered by SFHHA's request constitute thousands of printed pages. The work papers and other supporting materials for those responses are voluminous; and identifying and gathering all of those materials is unduly burdensome.

DOCUMENT NUMBER-DATE

07721 AUG-9 05

FPSC-COMMISSION CLF

The burden of identifying and gathering the requested materials is exacerbated by the short time FPL has been given to do so. The deposition cross-notices were served on FPL on July 29 and on August 1 for a deposition on August 10, leaving only a few business days to complete this burdensome task. This contrasts sharply with the thirty days that parties are allowed by the Order Establishing Procedure in this proceeding (Order No. PSC-05-0347-PCO-EI, dated March 31, 2005) and by Rule 1.350 of the Florida Rules of Civil Procedure to respond to requests for production of documents. To protect against this sort of abuse and circumvention of the discovery process, Rule 1.310 of the Florida Rules of Civil Procedure recognizes that, when a party seeks to have documents produced at a deposition, the requirements of Rule 1.350 (including the allowed period to respond) applies. SFHHA and FIPUG have failed to comply with these requirements.

Finally, SFHHA's and FIPUG's directions to Dr. Morley violate the August 10, 2005, discovery cut-off set in the Order Establishing Procedure. As noted above, FPL is entitled to thirty days to respond to document production requests, whether or not they are made in conjunction with a deposition. The documents supporting discovery responses that SFHHA and FIPUG have directed Dr. Morley to bring to her deposition would not be due until August 28, 2005, at the earliest, which is well beyond the discovery cut-off.

Staff's original Notice of Telephonic Deposition, dated July 28, 2005, also asked that Dr. Morley bring to her deposition "all work papers or other materials used by the witness in preparation of testimony filed in the docket or used ... in preparation of responses to Staff's discovery requests in this docket." However, Staff counsel Katherine Fleming advised FPL by e-mail on August 8, 2005, that Staff needed Dr. Morley to bring only a small and manageable group of documents to her deposition. With the understanding that the request in Staff's Notice

of Telephonic Deposition is limited to that group of documents, FPL is not objecting at this time to Staff's request.

Respectfully submitted this 9<sup>th</sup> day of August, 2005.

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By: /s/ Susan F. Clark

Susan F. Clark  
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## CERTIFICATE OF SERVICE

I CERTIFY that a true and correct copy of the foregoing Objections has been furnished electronically and by United States Mail this 9<sup>th</sup> day of August, 2005, to the following:

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