

ORIGINAL

Timolyn Henry

From: Jim Tait [jimtait@comcast.net]
Sent: Friday, August 26, 2005 4:07 PM
To: Filings@psc.state.fl.us
Cc: Natalie_Smith@fpl.com; Patrick_Bryan@fpl.com; Martha Brown; Adrienne Vining; Dennis Stroer; Jon Klongerbo
Subject: Docket 04-0029-EG Petitioner's 3rd set of Interrogatories and Document Request
Attachments: Petitioner's Third Set of Doc Requests to FPL 8-26-05.doc; Petitioner's Third Set of Interrogatories to FPL 8-26.doc

Attached in two MS/Word files are Petitioner's 3rd set of Interrogatories (#44-57) and Document Requests (#28-36) under the consolidated dockets of 04-0029-EG and 04-0660-EG.

Jim Tait
 1061 Windwood Way
 Tallahassee, Florida 32311
 Phone: (850) 878-0500; fax 942-5890

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FPSC-COMMISSION CLERK

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for approval of)	Docket Nos. 040660-EG and 040029-EG
Numeric Conservation Goals)	Consolidated
by Florida Power & Light Company)	
<hr/>		Dated: August 26, 2005

COMPLIANCE DATA SERVICES, INC.'S ("Calcs-Plus")
THIRD SET OF INTERROGATORIES TO
FLORIDA POWER & LIGHT COMPANY ("FPL")
(NOS. 44-57)

COMPLIANCE DATA SERVICES, INC. ("Calcs-Plus") pursuant to Rule 1.340, Florida Rules of Civil Procedure, hereby propounds the following interrogatories on Florida Power & Light Company ("FPL"), and requests that they be answered separately, fully and under oath within thirty (30) days.

DEFINITIONS

1. "Calcs Plus" means Compliance Data Services, Inc., Dennis J. Stroer and Jon F. Klongerbo, who individually and collectively filed the November 12, 2004, and the amended December 29, 2004, protest in Docket No. 040660-EG.
2. "You," "yours" and/or "yourselves" means Florida Power & Light Company ("FPL"), and any attorney, employee, agent, representative or other person acting or purporting to act on the behalf of FPL, including all persons who will offer testimony on behalf of FPL in this proceeding.
3. "Person" or "persons" means all natural persons and entities, including but not limited to: corporations, companies, partnerships, limited partnerships, joint ventures, trusts, estates, associations, public agencies, departments, bureaus or boards.

4. "Protest" shall mean the protest of approval of modifications to FPL's BuildSmart Plan filed by Calcs-Plus, Dennis J. Stroer and Jon F. Klongerbo on November 12, 2005, and amended on December 29, 2004, in Docket No. 040660-EG.
5. "Document or documents" means "documents" as defined in Rule 1.350 of the Florida Rules of Civil Procedure. In addition, the words "document" or "documents" shall mean any writing, recording, computer-stored information, or photograph in your actual or constructive possession, custody, care or control, which pertain directly or indirectly, in whole or in part, either to any of the subjects listed below or to any other matter relevant to the issues in this action, or which are themselves listed below as specific documents, including, but not limited to: correspondence, memoranda, notes, messages, diaries, minutes, books, reports, charts, ledgers, invoices, computer printouts, computer discs, microfilms, video tapes or tape recordings.
6. "FEECA" means the Florida Energy Efficiency Conservation Act.
7. "FPSC" or "Commission" shall mean Florida Public Service Commission."
8. "FPL" means Florida Power & Light Company.
9. "Identify" shall mean: (1) when used with respect to a person, to state the person's full name, present or last known business address; and present or last known employer and position; (2) when used in respect to a document, to describe the document by character (e.g., letter, report, memorandum, etc.), author, date, and to state its present location and custodian; (3) when used with respect to an oral communication, to identify the persons making and receiving the communication, the approximate date of and time of the communication, and a summary of its content or substance.

10. "Petitioners" shall mean Calcs-Plus, Dennis J. Stroer and Jon F. Klongerbo, whether individually or collectively.
11. "Principals" shall mean Dennis J. Stroer and Jon F. Klongerbo.
12. "Witness" means any person, including but not limited to expert witnesses, whom you intend to call to testify in this proceeding.

INSTRUCTIONS

13. If any of the following interrogatories cannot be answered in full after exercising due diligence to secure the information, please so state and answer to the extent possible, specifying your inability to answer the remainder, and state whatever information you have concerning the unanswered portion. If your answer is qualified in any respect, please set forth the details of such qualifications.
14. If you object to fully identifying a document or oral communication because of a privilege, you must nevertheless provide the following information, unless divulging the information would disclose the privileged information:
 - a. the nature of the privilege claimed (including work product);
 - b. the date of the document or oral communication;
 - c. if a document; its type (correspondence, memorandum, facsimile etc.), custodian, location, and such other information sufficient to identify the document for a subpoena duces tecum or a document request, including where appropriate the author, the addressee, and, if not apparent, the relationship between the author and addressee;

- d. if an oral communication; the place where it was made, the names of the persons present while it was made, and, if not apparent, the relationship of the persons present to the declarant; and
- e. the general subject matter of the document or the oral communication.
15. If you object to all or part of any interrogatory and refuse to answer that part, state your objection, identify the part to which you are objecting, and answer the remaining portion of the interrogatory.
16. Whenever an interrogatory calls for information which is not available to you in the form requested, but is available in another form, or can be obtained at least in part from other data in your possession, so state and either supply the information requested in the form in which it is available, or supply the data from which the information requested can be obtained.
17. The singular shall include the plural and vice versa; the terms “and” and “or” shall be both conjunctive and disjunctive; and the term “including” means “including without limitation.”
18. These interrogatories shall be answered under oath by you or through your agent who is qualified to answer and who shall be fully identified, with said answers being served as provided pursuant to the Florida Rules of Civil Procedure or order of the Commission.

Respectfully submitted this 26th day of August, 2005.

\s\ William J. Tait, Jr.
William J. Tait, Jr.
FL BAR No. 0125081
1061 Windwood Way
Tallahassee, Florida 32311
Telephone: (850) 878-0500
Facsimile: (850) 942-5890
e-mail: jimtait@comcast.net

CERTIFICATE OF SERVICE

I **HEREBY CERTIFY** that a true and correct copy of the foregoing has been furnished electronically and via U.S. Mail this 26th day of August, 2005, to the following:

Martha Carter Brown, Esquire*
Adrienne Vining, Esquire*
Office of the General Counsel
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850

Natalie F. Smith, Esquire*
Patrick M. Bryan, Esquire*
Florida Power & Light Company
700 Universe Boulevard
Juno Beach, FL 33408
Telephone: (561) 691-7207
Facsimile: (561) 691-7135

By: s/William J. Tait, Jr.
William J. Tait, Jr.
Fla. Bar No. 0125081

INTERROGATORIES

44. Identify and describe in detail the various processes used to certify homes in FPL's BuildSmart Program and to inform the Builder, Prospective Homebuyer and Homebuyer of the individual homes medallion status and energy efficiency score. Specifically include, without limitation:
- a. At what time and in what manner does the home receive its certification as to its medallion level and energy efficiency calculation;
 - b. Is the certification as to level of energy efficiency (medallion level) based upon the initial code calculation (e-ratio) or upon a recalculation of the home's e-ratio done after final inspection and, if any, duct testing;
 - c. What documentation is provided the Builder at different stages in the process; specifically including, without limitation, the initial code calculation and e-ratio and any subsequent calculation or reports developed after mid-point (if done) and final inspections;
 - d. What documents or educational materials are provided to the homebuyer or prospective homebuyer and at what time;
 - e. Are any plaques or other symbols of the medallion level of the home attached to the home or provided in certificate form to the Builder and/or Homebuyer;
 - f. Any subsequent support given to the Builder in advertising the home or identifying the home as to medallion level or BuildSmart qualified;
 - g. The method by which each home's medallion level was certified;
 - h. Any instructions or other supporting educational materials given to the Builder as to use of the BuildSmart program and its certification of the home.
45. Please describe your calculations for your current (and projected through 2014) savings (kWh) and demand (summer and winter KW) reduction per unit. Specifically, include, without limitation, the measures you included for developing the calculations and the impact of each measure on your total calculation of savings and demand reduction. Please identify any studies or other documentation you used to arrive at your calculations.
46. Is it possible to run the Rate Impact Measure ("RIM") test on the BuildSmart program as proposed to be modified and use lost "profits" rather than lost "revenues;" that is, calculate the maximum rate of return allowed for the sales projected to be lost and use that amount instead of lost revenues. If so, what would be the resulting cost-benefit ratio? If not, why not?
47. Please disclose the minimum training/qualifications/certifications requirements for any

FPL staff to produce Energy Code Calculations or e-ratios in support of the BuildSmart Program.

- 48. Please disclose the minimum training/qualifications/certifications requirements for any FPL staff to produce on-site performance testing in support of the BuildSmart Program.
- 49. Please indicate the direct costs (in addition to the \$400/home administrative cost) for both the flexible and prescriptive proposed methods. Please describe any differences with the filed tariff for BERS Ratings to the FPSC and the identified direct and administrative costs.
- 50. Please describe how the proposed flexible method impacts the Energy Star and Florida Green Building Certification scoring criteria.
- 51. Please describe how the proposed prescriptive method impacts the Energy Star and the Florida Green Building Certification scoring criteria.
- 52. Please describe the method to quantify duct leakage that FPL has used for both mid-point and final BuildSmart certification.
- 53. Please describe the protocol for informing the builder in the case of failure of a BuildSmart Home or the State’s energy code and what remedial actions are performed.
- 54. Please describe the method for verifying the e-ratio is correct on all homes under the BuildSmart program.
- 55. Please describe under what circumstances a “Tight Duct Credit” is taken while calculating the e-ratio. Please describe the verification method to ensure this credit is applicable.
- 56. Please list by zip codes, the number of 600-A (Energy Code Compliance Forms) that have been submitted to local Building departments signed by FPL Employees to support the BuildSmart Program.
- 57. Please describe any circumstances where a home is not physically inspected, and is counted as a certified BuildSmart Home.

I HEREBY CERTIFY that I am an authorized representative of Florida Power & Light Company, and that the answers to these Interrogatories are true and correct.

By: _____

Title: _____

STATE OF FLORIDA)
) ss:
 COUNTY OF)

I HEREBY CERTIFY that on this ____ day of _____, 2005, before me, an officer duly authorized in the State and County aforesaid to take acknowledgments, personally appeared _____, who is personally known to me or who has produced _____ as identification and who did take an oath, and he/she acknowledged before me that he/she executed the foregoing answers to interrogatories as his/her free act and deed, that the statements contained therein are true and correct, and that said answers are given under oath.

IN WITNESS WHEREOF, I have hereunto set my hand and seal in the County and State aforesaid as of this ____ day of _____, 2005

Notary Public, State of Florida