

Matilda Sanders

From: Barbara_J_Washington@fpl.com
Sent: Thursday, September 08, 2005 9:00 AM
To: Filings@psc.state.fl.us
Cc: Wade_Litchfield@fpl.com; Natalie_Smith@fpl.com; Patrick_Bryan@fpl.com; Elizabeth_Carrero@fpl.com
Subject: Electronic Filing for Docket Nos. 040660-EG and 040029-EG

Importance: High

Attachments: Notice of Taking Depo Duces Tecum of Philip Fairey.doc

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SCR _____
SGA _____
SEC 1
OTH _____



Notice of
Depo Duces

Electronic Filing

(1) Person responsible for this electronic filing:

Patrick M. Bryan, Attorney
Florida Power & Light Company
700 Universe Blvd.
Juno Beach, FL 33408
(561) 304-5134
patrick_bryan@fpl.com

(2) Docket Nos. 040660-EG and 040029-EG

In re: Petition for approval of modifications to BuildSmart Program by Florida Power & Light Company

In re: Petition for approval of numeric conservation goals by Florida Power & Light Company

(3) Documents being filed on behalf of Florida Power & Light Company

(4) There are a total of eight (8) pages.

(5) The document attached for electronic filing is:

(a) Notice of Taking Deposition Duces Tecum

(See attached file: Notice of Taking Depo Duces Tecum of Philip Fairey.doc)

Thank you for your attention and cooperation to this request.

Barbara J. Washington
Legal Assistant to
Patrick M. Bryan, Esquire
(561) 304-5137 (Office)
(561) 691-7305 (Fax)
barbara_j_washington@fpl.com (Email)

BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for approval of modifications to BuildSmart Program by Florida Power & Light Company)	Docket No. 040660-EG
)	
)	
)	
In re: Petition for approval of numeric conservation goals by Florida Power & Light Company)	Docket No. 040029-EG
)	
)	
)	Filed: September 8, 2005

NOTICE OF TAKING DEPOSITION DUCES TECUM
(Dial-in Number to be Provided)

TO: William J. Tait, Esquire 1601 Windwood Way Tallahassee, FL 32311	FROM:	R. Wade Litchfield, Esquire Natalie F. Smith, Esquire Patrick M. Bryan, Esquire Florida Power & Light Company 700 Universe Blvd. Juno Beach, FL 33408
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PLEASE TAKE NOTICE THAT pursuant to Rule 1.310, Florida Rules of Civil Procedure, on Wednesday, September 14, 2005, at 1:00 p.m., at the offices of Arter Reporting Services, located at 1802 South Fiske Boulevard, Suite 107, Rockledge, Florida 32955, the undersigned will take the deposition of Philip Fairey before a court reporter, notary public, or some other officer duly authorized to take depositions in the State of Florida. This deposition is being taken for such reasons as are permitted under the applicable and governing Rules of Civil Procedure and Florida Statutes, and will continue from day-to-day until complete.

Individuals with disabilities needing a reasonable accommodation to participate in this proceeding should contact Patrick M. Bryan, Esquire, at (561) 304-5134. If hearing impaired, call 1-800-955-8771 (TDD) or 1-800-955-8770 (V) via Florida Relay Service for assistance.

The deponent(s) shall bring to this deposition copies of documents as set forth below.

DEFINITIONS

1. "Calcs-Plus" shall mean Compliance Data Services, Inc., and its authorized representatives, officers, employees, or managing agents, including but not limited to Philip Fairey.

2. "You," "yours" and/or "yourselves" means and refers to Calcs-Plus, and any affiliated entities, and their employees, agents, officers and managers, including, but not limited to, the deponent(s).

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. "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 possession, custody, care or control, which pertain directly or indirectly, in whole or in part, to any of the subjects listed below, or which are themselves listed below as specific documents, including, but not limited to: correspondence, memoranda, notes, messages, e-mails, diaries, minutes, books, reports, charts, ledgers, invoices, computer printouts, computer discs, microfilms, video tapes, or tape recordings.

5. "FPSC" means Florida Public Service Commission.

6. "FPL" means Florida Power & Light Company.

7. "Related to" shall mean contain, discussed, described, addressed or referred to.

8. "Testimony" shall mean the testimony filed by Calcs-Plus in Docket Nos. 040029-EG and 040660-EG on August 12, 2005.

9. "All" means all or any.

10. The singular of any word contained herein 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."

INSTRUCTIONS

11. Scope of Deposition Duces Tecum. In appearing for this Deposition Duces Tecum, produce all responsive documents, including any and all non-identical copies of each such document.

12. Manner of Objections and Inability to Respond. If you object to a part of a request and refuse to respond to that part, state your objection and answer the remaining portion of that request. If you object to the scope of a request and refuse to produce documents for that scope, state your objection and produce documents for the scope you believe is appropriate.

13. If any of the requests cannot be responded to in full after exercising due diligence to secure the requested documents, please so state and respond and produce documents to the extent possible, specifying your inability to respond further. If your response or production is qualified or limited in any particular way, please set forth the details and specifics of such qualification or limitation.

14. Privileged Information or Documents. In the event you wish to assert attorney/client privilege or the work product doctrine, or both, or any other claim of privilege, then as to such documents allegedly subject to such asserted privileges, you are requested to supply an identification of such documents, in writing, with sufficient specificity to permit the

Prehearing Officer or Commission to reach a determination in the event of a motion to compel as to the applicability of the asserted objection, together with an indication of the basis for the assertion of the claim of attorney/client privilege or the work product doctrine, or any other claim of privilege. The identification called for by this instruction shall include the nature of the document (e.g., interoffice memoranda, correspondence, report, etc.), the sender or author, the recipient of each copy, the date, the name of each person to whom the original or any copy was circulated, the names appearing on any circulation list associated with such document, and a summary statement of the subject matter of the document in sufficient detail to permit the Court to reach a determination in the event of a motion to compel.

15. Computer-Generated Documents. If a requested document is on computer or word processing disc or tape, produce an electronic copy of the document and a printout of the document.

16. Organization of Documents. With respect to the documents produced, you shall produce them as they are kept in the usual course of business, labeling them to correspond with each numbered paragraph of this Request in response to which such documents are produced. All pages now stapled or fastened together and all documents that cannot be copied legibly should be produced in their original form.

DOCUMENTS REQUESTED

1. All documents or work papers related to, relied upon, or referred to in preparation of your pre-filed testimony in FPSC Docket Nos. 040029-EG, 040660-EG.

I HEREBY CERTIFY that a true copy of the foregoing has been furnished by Electronic Mail and by United States Mail to the above named addressee on September 8, 2005.

PLEASE GOVERN YOURSELVES ACCORDINGLY.

R. Wade Litchfield, Esquire.
Natalie F. Smith, Esquire
Patrick M. Bryan, Esquire
Florida Power & Light Company
700 Universe Boulevard
Juno Beach, Florida 33408-0420
Telephone: 561-304-5134
Facsimile: 561-691-7305

Attorneys for Florida Power & Light
Company

By: s/Patrick M. Bryan
Patrick M. Bryan
Florida Bar No. 0457523

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of Florida Power & Light Company's Notice of Taking Deposition Duces Tecum has been served by electronic mail and by United States Mail this 8th day of September, 2005, to the following:

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

William J. Tait, Jr., Esq.
1061 Windwood Way
Tallahassee, Florida 32311

Harold McLean
Office of Public Counsel
111 West Madison Street, Room 812
Tallahassee, Florida 32399-1400

By: s/Patrick M. Bryan
Patrick M. Bryan
FL Bar No. 0457523

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for approval of)
modifications to BuildSmart Program)
by Florida Power & Light Company)

Docket No. 040660-EG

In re: Petition for approval of)
numeric conservation goals)
by Florida Power & Light Company)

Docket No. 040029-EG

Filed: September 8, 2005

SUBPOENA FOR DEPOSITION
*DUCES TECUM

THE STATE OF FLORIDA

TO: Philip Fairey, Deputy Director
Florida Solar Energy Center
1679 Clearlake Road
Cocoa, FL 32922-5703
(321) 638-1005

YOU ARE COMMANDED to appear before a person authorized by law to take depositions at the offices of Arter Reporting Services, 1802 South Fiske Boulevard, Suite 107, Rockledge, FL 32955 on Wednesday, September 14, 2005, at 1:00 p.m. for the taking of your deposition in this action. If you fail to comply, you may be held in contempt of court.

***DUCES TECUM:**

Please bring with you any and all records, including, but not limited to: All documents or work papers related to, relied upon, or referred to in preparation of your pre-filed testimony in FPSC Docket Nos. 040039-EG, 040660-EG.

YOU ARE subpoenaed to comply by the following attorneys and unless excused from this subpoena by these attorneys or the court, you shall respond to this subpoena as directed.

DATED this 8th day of September, 2005.

R. Wade Litchfield, Esquire
Natalie F. Smith, Esquire
Patrick M. Bryan, Esquire
Florida Power & Light Company
700 Universe Blvd.
Juno Beach, Florida 33408
(561) 304-5134
(561) 691-7305 (Fax)

By: s/Patrick M. Bryan
Patrick M. Bryan
FL Bar No. 0457523