

ORIGINAL

Timolyn Henry

From: Jim Tait [jimtait@comcast.net]
Sent: Tuesday, September 20, 2005 2:07 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: Notice of taking Deposition--Daniel Haywood and Steve Sim
Attachments: Notice of deposition--Steven R. Sim 9-26.doc; Notice of deposition--Daniel J. Haywood 9-26.doc

Attached is notice of taking deposition for Daniel Haywood and Steve Sim.
 Two files:

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

CMP _____
 COM _____
 CTR 073
 ECR _____
 GCL _____
 OPC _____
 RCA _____
 SCR _____
 SGA _____
 SEC 1
 OTH _____

DOCUMENT NUMBER-DATE

08893 SEP 20 05

FPSC-COMMISSION CLERK

ORIGINAL

BEFORE THE PUBLIC SERVICE COMMISSION

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.

**DOCKET NO. 040660-EG
DOCKET NO. 040029-EG
DATED: SEPTEMBER 20, 2005**

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

To: Natalie F. Smith, Esquire
Patrick M. Bryan, Esquire
Florida Power & Light Company
700 Universe Blvd.
Juno Beach, FL 33408

From: William J. Tait, Esquire
1601 Windwood Way
Tallahassee, FL 32311

PLEASE TAKE NOTICE THAT pursuant to Rule 1.310, Florida Rules of Civil Procedure, on Monday, September 26, 2005, at 1:30 p.m. (or immediately following the conclusion of the deposition of Daniel J. Haywood), at the Media Center located at Florida Power & Light Company's main office, 700 Universe Blvd, Juno Beach, FL 33408, the undersigned will take the deposition of Steven R. Sim 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 William J. Tait, Jr., at (850) 878-0500. 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" means Compliance Data Services, Inc., Dennis J. Stroer and Jon F. Klungerbo, 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. "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. The term "documents" includes copies of documents, where the originals are not in your possession, custody, or control.
5. The term "documents" includes every copy of a document that contains handwritten or other notations or that otherwise does not duplicate the original or any other copy.
6. The term "documents" also includes any attachments or appendices to any document.
7. "Each" shall be construed to include the word "every" and "every" shall be construed to include the word "each." Similarly, "any" shall be construed to include "all," and "all" shall be construed to include "any."
8. 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."
9. "FPSC" or "Commission" shall mean Florida Public Service Commission."
10. "FPL" means Florida Power & Light Company.
11. "Petitioners" shall mean Calcs-Plus, Dennis J. Stoer and Jon F. Klongerbo, whether individually or collectively.
12. "Related to" shall mean contain, discussed, described, addressed or referred to.
13. "Testimony" shall mean the testimony filed by FPL in Docket Nos. 040029-EG and 040660-EG on August 12 2005.
14. "Responses to interrogatories and document requests" shall mean the responses filed by FPL in Docket Nos. 040029-EG and 040660-EG.

INSTRUCTIONS

15. 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.
16. 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.
17. 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.
18. 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 (, 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.
 19. 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.
 20. 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

All documents or work papers related to, relied upon, or referred to in preparation of your pre-filed testimony and responses to interrogatories and document requests by the parties in FPSC Docket Nos. 040029-EG and 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 20, 2005.
PLEASE GOVERN YOURSELVES ACCORDINGLY.

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 20th day of September, 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

\s\ William J. Tait, Jr.
William J. Tait, Jr.
Florida Bar No. 0125081