

Matilda Sanders

From: Elizabeth_Carrero@fpl.com
Sent: Monday, September 26, 2005 8:11 AM
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Subject: Electronic Filing for Docket Nos. 040660-EG/040029-EG Objections of FPL to Portions of Document Requests Accompanying Notice of Taking Deposition Duces Tecum for Daniel J. Haywood

Attachments: Objections of FPL to Not. of Taking Depo Duces Tecum for Haywood.DOC



Objections
PL to Not. of

Electronic Filing

a. Person responsible for this electronic filing:

Natalie F. Smith, Attorney
Florida Power & Light Company
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Juno Beach, FL 33408
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b. 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

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

d. There are a total of 3 pages.

e. The document attached for electronic filing is Objections of Florida Power & Light Company to Portions of Document Requests Accompanying Notice of Taking Deposition Duces Tecum for Daniel J. Haywood

(See attached file: Objections of FPL to Not. of Taking Depo Duces Tecum for Haywood.DOC)

Thank you for your attention and cooperation to this request.

Elizabeth Carrero, Legal Asst
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BEFORE THE FLORIDA 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

Filed: September 26, 2005

**OBJECTIONS OF FLORIDA POWER & LIGHT COMPANY
TO PORTIONS OF DOCUMENT REQUESTS ACCOMPANYING
NOTICE OF TAKING DEPOSITION DUCES TECUM FOR DANIEL J. HAYWOOD**

Florida Power & Light Company ("FPL") hereby objects for the reasons set forth below to Compliance Data Services, Inc.'s and its Principals' ("Calcs-Plus") Notice of Taking Deposition Duces Tecum, filed September 20, 2005, with respect to the directions contained therein for Daniel J. Haywood to bring to his deposition copies of "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."

The above-quoted document requests are overly broad and unduly burdensome. As the person responsible for the redesign of the BuildSmart Program, Mr. Haywood has been identified as the sponsor of many FPL's responses. The work papers and other supporting materials for those responses are extremely voluminous and located throughout FPL's operations. Identifying and gathering all of those materials would be a Herculean task.

The burden of identifying and gathering the requested materials is greatly exacerbated by the short time FPL has been given to do so. The deposition notice was served on FPL on

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September 20th for a deposition on September 26th, leaving only about three or four business days to complete this burdensome task. This contrasts sharply with the thirty days that parties are allowed by the Order Consolidating Dockets No. PSC-05-0720-PCO-EG and Order No. PSC-05-0535-PCO-EG and 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. Calcs-Plus has failed to comply with these requirements.

Finally, Calcs-Plus' directions to Mr. Haywood violate the September 26, 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 Calcs-Plus has directed Mr. Haywood to bring to his deposition would not be due until well beyond the discovery cut-off.

Respectfully submitted this 26th day of September, 2005.

By: s/Natalie F. Smith
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Company
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished electronically and by United States Mail this 26th day of September, 2005, to the following:

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