

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 Steven R. Sim

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

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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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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 Steven R. Sim

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

Thank you for your attention and cooperation to this request.

Elizabeth Carrero, Legal Asst
Wade Litchfield, Esq. and Natalie Smith, Esq.
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ORIGINAL

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 20, 2005

**OBJECTIONS OF FLORIDA POWER & LIGHT COMPANY
TO PORTIONS OF DOCUMENT REQUESTS ACCOMPANYING
NOTICE OF TAKING DEPOSITION DUCES TECUM FOR STEVEN R. SIM**

Florida Power & Light Company ("FPL") hereby objects for the reasons set forth below to Compliance Data Services, Inc.'s ("Calcs-Plus") Notice of Taking Deposition Duces Tecum, filed September 20, 2005, with respect to the directions contained therein for Steven R. Sim 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 FPL's Senior Vice President of Finance and Chief Financial Officer witness in these dockets, Mr. Dewhurst 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 September 20th for a deposition on September 26th, leaving only about three or four business

DOCUMENT NUMBER-DATE

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FPSC-COMMISSION CLERK

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, Public Counsel's, SFHHA's, FRF's and FIPUG's directions to Mr. Dewhurst violate the August 10, 2005 discovery cut-off set in the Order Establishing Procedure. As noted above, FPL is entitled to thirty days to response to document production requests, whether or not they are made in conjunction with a deposition. The documents supporting discovery responses that Public Counsel, SFHHA, FRF and FIPUG have directed Mr. Dewhurst to bring to his deposition would not be due until well beyond the discovery cut-off.

Staff's original Notice of Telephonic Deposition, dated July 28, 2005, also asked that Mr. Dewhurst bring to his deposition "all work papers or other materials used by the witness ... in preparation of responses to Staff's discovery requests in this docket." However, Staff counsel Cochran Keating advised FPL by e-mail last week that Staff needed Mr. Dewhurst to bring only a small and manageable group of documents to his 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 20th day of September, 2005.

By: s/Natalie F. Smith
Natalie F. Smith

Patrick M. Bryan
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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 20th day of September, 2005, to the following:

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