

050890-EI

Timolyn Henry

From: Estes, Ron L [REstes@HowardandHoward.com]
Sent: Monday, November 21, 2005 4:49 PM
To: Filings@psc.state.fl.us
Subject: New Sears Complaint and Motion to Maintain Status Quo

Attachments: Emergency Motion Sears.doc; Sears_ADMIN_COMP_FINAL.doc; EXHIBIT A.doc.Sears.doc; EXHIBIT B.doc; EXHIBIT C(C1-C2).doc



Emergency Motion Sears.doc (12 KB)
Sears_ADMIN_COMP_FINAL.doc (41 KB)
EXHIBIT A.doc (1 MB)
EXHIBIT B.doc (1 MB)
EXHIBIT C(C1-C2).doc (1 MB)

This e-mail message to which the document is attached includes the following information, in the order listed:

- a. The full name, address, telephone number, and e-mail address of the person responsible for the electronic filing, Rodger A. Kershner
Howard & Howard, P.C.
39400 Woodward Ave., Ste. 101
Bloomfield Hills, MI 48304
(248) 723-0421 - Telephone
(248) 645-1568 - Facsimile
rkershner@howardandhoward.com
- b. The docket number and title if filed in an existing docket, Request for new docket
- c. The name of the party on whose behalf the document is filed, Sears, Roebuck and Company
- d. The total number of pages in each attached document.,
 - 1. Complaint - 16 pages
 - 2. Exhibit A - 1 page
 - 3. Exhibit B - 2 pages
 - 4. Exhibit C(C1-C2) - 5 pages
 - 5. emergency Motion to Maintain Status Quo - 4 pages
- e. A brief but complete description of each attached document.
 - 1. Complaint -
 - 2. Exhibit A - Notice of Demand for Deposit from Florida Power and Light to Sears, Roebuck and Company.
 - 3. Exhibit B - Critical Evaluation of Dun & Bradstreet Reports
 - 4. Exhibit C - Copies of Orders from this Commission regarding FAC 25-6.097(3)

Ron L. Estes
Howard & Howard Attorneys, P.C.
The Pinehurst Office Center, Suite 101
39400 Woodward Avenue
Bloomfield Hills, MI 48304

Direct: 248.723.0492
Fax: 248.645.1568
Mobile: 248.835.7955
E-Mail: RLE@H2Law.com
Website: www.H2Law.com

DOCUMENT NUMBER-DATE

11162 NOV 21 05

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the Emergency Motion to Maintain Status Quo, was on this 21^h day of November, 2005 served via U.S. Mail to the following:

Garson Knapp, Attorney
FPL Energy Power Marketing, Inc.
700 Universe Boulevard
Juno Beach, FL 33408
Tel: (561) 304-5720
Fax: (561) 625-7504

Florida Power & Light Company
P.O. Box 025576
Miami, FL 33102

Florida Power & Light Company
700 Universe Boulevard
Juno Beach, FL 33408

Respectfully submitted,
Sears, Roebuck and Co.

s/ Rodger A. Kershner

Rodger A. Kershner
Howard & Howard, P.C.
39400 Woodward Ave., Ste. 101
Bloomfield Hills, MI 48304

ORIGINAL

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Complaint of Sears, Roebuck and Company
Against Florida Power and Light Company

Docket No. 050890-EI
Filed November 21, 2005

**MOTION TO COMPEL FLORIDA POWER AND LIGHT COMPANY TO
CONTINUE ELECTRIC SERVICE AND TO CEASE AND DESIST DEMANDS FOR
DEPOSIT PENDING THIS COMMISSION'S FINAL DECISION REGARDING
SEARS, ROEBUCK AND COMPANY'S COMPLAINT AGAINST FLORIDA
POWER AND LIGHT COMPANY**

1. Pursuant to Rule 28-106.204 of the Florida Administrative Code Sears, Roebuck and Company, ("Sears") through its undersigned qualified representative, files this Motion and hereby requests this Commission to issue an Order to Florida Power and Light Company ("FP&L") that FP&L may not interrupt electric service to any Sears location pending resolution of the complaint for docket # _____, filed this day, November 21, 2005 with this Commission (the "Complaint").

2. Consistent with Rule 25-22.032 of the Florida Administrative Code, which requires a utility company to maintain electric service pending this Commission's final determination in informal proceedings, Sears requests this Commission to maintain the status quo by ordering FP&L to cease and desist from taking any action to interrupt service to any Sears location within FP&L's service area while the Complaint is pending.

3. FP&L has threatened Sears with disconnection of all electric service to Sears locations unless Sears immediately provides FP&L with a deposit in the amount of \$1,002,705.

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4. For the reasons set forth in the Complaint, FP&L's demand is unfair, unreasonable and illegal.

5. Electric service is vital to Sears' ability to continue to conduct business in Florida as it has done for the past 100 years and Sears will suffer irreparable harm to its business operations and reputation if FP&L is permitted to illegally interrupt electric service.

6. Sears has conferred with FP&L regarding this motion and FP&L stated no objections to the motion and continues its unreasonable deposit demand.

7. Sears has maintained a prompt payment record and FP&L's demand is based on objectively unreasonable sources and the financial information of Sears' sole shareholder, Sears Holding Company, an irrelevant third party. As such, Sears respectfully requests this Commission to order FP&L to maintain the status quo, which has been in effect for several years, while this Commission fully determines the scope of FP&L's violation of Sears' legal right to be protected from unreasonable deposit demands.

WHEREFORE, Sears respectfully requests the entry of an Order requiring FP&L to maintain electric service to any Sears' location pending this Commission's resolution of Docket No. _____.

Respectfully submitted,
Sears, Roebuck and Company

s/ Rodger A. Kershner

Rodger A. Kershner
Howard & Howard, P.C.
39400 Woodward Ave., Ste. 101
Bloomfield Hills, MI 48304
(248) 723-0421 – Telephone
(248) 645-1568 – Facsimile