

Ruth Nettles

From: Beverly_Mile@fpl.com
Sent: Friday, April 04, 2008 2:34 PM
To: Filings@psc.state.fl.us
Cc: Wade_Litchfield@fpl.com; Bryan_Anderson@fpl.com
Subject: Electronic Filing for Docket No. 080083-EI - FPL's Response to FIPUG's Petition to Intervene.
Attachments: FPL's Response to FIPUG's PETITION to INTERVENE.doc

Electronic Filing

a. Person responsible for this electronic filing:

Bryan S. Anderson

700 Universe Boulevard

Juno Beach, FL 33408

Tel: (561) 304-5253

Bryan_Anderson@fpl.com

b. Docket No. 080083-EI

In re: Petition for Declaratory Statement Regarding Applicability of Rule 25-6.0423, F.A.C., by FPL

c. This document is being filed on behalf of Florida Power & Light Company.

d. There are a total of three (3) pages in the document.

e. The document attached for electronic filing is Florida Power & Light Company's Response to Florida Industrial Power User Group's Petition to Intervene.

(See attached file: FPL's Response to FIPUG's PETITION to INTERVENE.doc)

Beverly Mile, ACP
Senior Legal Assistant
Law Department
Direct Line: (561) 691-7724
Facsimile: (561) 691-7135
E-Mail: beverly_mile@fpl.com

DOCUMENT NUMBER - DATE
02630 APR -4 08
FPSC-COMMISSION CLERK

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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Petition for Declaratory Statement)
Regarding Applicability of Rule 25-6.0423,)
F.A.C., by Florida Power & Light Company)

Docket No. 080083-EI

Filed: April 4, 2008

**FLORIDA POWER & LIGHT COMPANY'S
RESPONSE TO FLORIDA INDUSTRIAL
POWER USER GROUP'S PETITION TO INTERVENE**

Florida Power & Light Company ("FPL" or the "Company"), in response to the Florida Industrial Power User Group's ("FIPUG's") Petition to Intervene, states as follows.

In this proceeding, FPL requests that the Commission issue a declaratory statement that advance payments made after site selection and prior to the completion of the Turkey Point 6 & 7 site clearing work are "pre-construction costs," as defined in Rule 25-6.0423(2)(g), Fla. Admin. Code, to be recovered pursuant to the mechanism provided in the Nuclear Plant Cost Recovery Rule, Rule 25-6.0423, Fla. Admin. Code.

Staff issued its recommendation in this proceeding on March 27, 2008, stating that "the Commission should grant FPL's Petition for Declaratory statement." Docket No. 080083-EI, Staff Recommendation issued March 27, 2008 at p. 7. FPL agrees with Staff's recommendation, and requests that the Commission enter an Order granting FPL's petition.

FPL does not object to FIPUG's intervention in this proceeding. FIPUG's petition to intervene restates a claim previously raised by the Office of Public Counsel ("OPC"). FPL therefore incorporates by reference its March 14 response to OPC's Statement of Position. As discussed below, FIPUG's claim lacks merit and has been fully addressed in Staff's recommendation.

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FIPUG, like OPC, overlooks the clear time period-based definition of “pre-construction costs” stated in Section 366.93, Fla. Stat., and Rule 25-6.0423(2)(g), Fla. Admin. Code. As Staff points out in its March 27, 2008 recommendation:

Because the types of pre-construction costs in Rule 25-6.0423(h) are flexible and not limited to those listed, but the timeframe in Rule 25-6.0423(2)(g) for pre-construction costs is explicit and absolute, the timeframe must be considered dispositive as to the correct characterization of these “queuing” costs under the rule. Thus what would otherwise be related to “construction costs” based on the type of expenses involved are “pre-construction costs” if advance payments therefore for queuing purposes are necessarily incurred within the timeframe described in Rule 25-6.0423(2)(g).

Docket No. 080083-EI, Staff Recommendation at p. 6 (emphasis in original). FIPUG’s claim, which is unsupported by any discussion of the language of Rule 25-6.0423, is contrary to that rule and should be rejected.

WHEREFORE, Florida Power & Light Company requests that the Florida Public Service Commission issue a declaratory statement as requested in the petition in this matter and as recommended by Staff.

Respectfully submitted this 4th day of April, 2008.

R. Wade Litchfield, Vice President and
Associate General Counsel
Bryan S. Anderson
Senior Attorney
Florida Power & Light Company
700 Universe Boulevard
Juno Beach, Florida 33408-0420

Attorneys for Florida Power & Light Company

By: /s/ Bryan S. Anderson
Bryan S. Anderson
Florida Authorized House Counsel # 219511

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of Florida Power & Light Company's Response to Florida Industrial Power User Group's Petition to Intervene has been furnished electronically and by United States mail this 4th day of April, 2008, to the following:

Richard Bellak, Esquire
Division of Legal Services
Florida Public Service Commission
Gerald L. Gunter Building
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850

rbellak@psc.state.fl.us

Office of Public Counsel
J.R. Kelly/Joseph A. McGlothlin
c/o The Florida Legislature
111 W. Madison Street, Room 812
Tallahassee, FL 32399-1400

Roberts.Brenda@leg.state.fl.us
mcglothlin.joseph@leg.state.fl.us

John W. McWhirter, Jr.
400 North Tampa Street, Suite 2450
Tampa, Florida 33602
Telephone: (813) 224-0866
Fax: (813) 221-1854

jmcwhirter@mac-law.com

R. Wade Litchfield, Vice President and
Associate General Counsel
Bryan S. Anderson
Senior Attorney
Florida Power & Light Company
700 Universe Boulevard
Juno Beach, Florida 33408-0420

Attorneys for Florida Power & Light Company

By: /s/ Bryan S. Anderson
Bryan S. Anderson
Florida Authorized House Counsel # 219511