

**BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

In re: Energy Conservation  
Cost Recovery Clause

DOCKET: 080002  
DATE: 23 AUG 2008

**PETITIONERS' ANSWER TO FLORIDA POWER AND LIGHT COMPANY'S  
RESPONSE IN OPPOSITION TO AMENDED PETITION TO INTERVENE  
OF SAPORITO ENERGY CONSULTANTS**

Saporito Energy Consultants ("SEC") by and through its undersigned President, Thomas Saporito, herein answers Florida Power and Light Company's ("FPL") opposition to SEC's amended petition to intervene and states as follows:

**BACKGROUND**

On August 22, 2008, FPL submitted its opposition to SEC's amended petition to intervene in the above-captioned matter currently before the Florida Public Service Commission ("FPSC") and stated, in part, that,

". . . Because this petition fails to allege any new facts sufficient to provide a basis for standing to intervene . . . Mr. Saporito's amended petition should be denied." Id. at 1.

**ARGUMENT**

Contrary to FPL's assertions, SEC's amended petition does allege facts indicating that SEC and Mr. Saporito will suffer injury in fact. Thus, FPL's assertions to the FPSC is misleading and such a bald assertion should be seen by the FPSC as undermining FPL's credibility going forward as it presents its case at hearing. In its recent filing, FPL asserts that,

". . . SEC's request to establish a business partnership with FPL . . . does not does not provide SEC with a basis for standing to intervene. . . Mr. Saporito has again failed to show that either he or SEC will suffer any injury in fact which is of sufficient

immediacy to entitle him to a hearing, and that his substantial injury is of a type or nature which the proceeding is designed to protect. . . Mr. Saporito has not alleged any new facts demonstrating that SEC has the legal capacity to intervene in this proceeding. . . While customers are from time to time permitted to intervene and represent their own interests as a *pro se* participant, only an attorney or a 'qualified representative' can represent the interests of others." Id. at 2.

Contrary to FPL's assertions with respect to SEC and Mr. Saporito's injury in fact regarding FPL's conduct related to the Sunshine Energy Program ("SEP") and SEC's attempts at a business partnership with FPL, SEC and Mr. Saporito have suffered injury in fact. Indeed, as a direct result of FPL's conduct in the administration of SEP, FPL rate-payers and customers view FPL as "**arrogant**" and without "**credibility**" as shown below,

"The arrogance of Florida Power & Light Co. apparently knows no bounds. It was bad enough last week when state regulators shut down an FPL green energy program, after an audit showed most of the \$11.4 million collected from customers who volunteered - at \$9.75 a month - for the Sunshine Energy program was used for public relations and marketing efforts. Ah, but now, as customers are screaming about being duped and talking about refunds or some way to get their money back, FPL says, technically, they don't owe customers a thing, because they bought renewable-energy credits and built more solar power. 'We delivered on what the Sunshine Energy program was all about,' an FPL spokesperson said. 'The money spent on marketing and administration

was critical to the successful launch of a program such as this one.' Incredible. Does FPL really think customers - whose income is already stretched extremely thin - signed up to pay \$9.75 a month for administrative, marketing and management expenses, with much of the other money buying renewable energy credits from companies outside Florida? Does FPL really think, with customers feeling they were played for fools, that they can simply claim they 'technically' did the right thing? Does FPL really think the next time they ask customers to voluntarily invest in an alternative energy program, they'll have any takers? The Public Service Commission has talked about customer refunds, or an FPL contribution to proposed solar projects, but the discussion has been put on hold until there is a more complete audit of the Sunshine Energy Program. Until then, FPL better be spending its time thinking about how to restore credibility with customers who have every right to feel like suckers. Claiming that they technically met the program's requirements is an unacceptable response from FPL. Bottom line: FPL needs to shelve arrogance, then work to restore credibility." See, August 5, 2008 Sun-Sentinel article at page 10A.

Clearly, it is FPL's conduct in apparently "duping" its customers into voluntarily contributing \$9.75 a month towards the SEP that calls into question FPL's arrogance and its credibility with its customers and its rate-payers. Thus, FPL's apparent arrogance and questionable credibility with its own customers and rate-payers poorly reflects on SEC and Mr. Saporito's ability to establish business relationships with FPL's customers and rate-payers.

Moreover, FPL's refusal to establish a business partnership with SEC and Mr. Saporito because of a whistleblower law suit where FPL's Vice President, Nuclear, John Odom, was found by the Secretary of Labor, to have been "**disingenuous**" when Odom testified under oath at a public hearing in ALJ Case No. 89-ERA-7 and 17, only serves to underscore FPL's arrogance and its continued retaliatory conduct towards Mr. Saporito and now SEC as a direct result of Mr. Saporito having raised safety concerns about the FPL Turkey Point nuclear plants. See, <http://saporitoenergyconsultants.com/FPSC.html>

Clearly, SEC and Mr. Saporito have suffered injury in fact from FPL's conduct in FPL's administration of the Sunshine Energy Program and SEC has gone to great lengths to divorce itself from FPL's conduct through SEC's website by encouraging FPL customers who participated in the program to file a complaint with the FPSC requesting a full refund of their monies paid into the program.

Contrary to FPL's assertion that SEC does not have the legal capacity to intervene in the instant action, SEC and Mr. Saporito are customers of FPL and are therefore have an inherent right to intervene in the instant action as a matter of law. Moreover, Mr. Saporito is more than qualified to represent his interests, the interests of SEC and the interests of FPL customers and rate-payers. As shown in Mr. Saporito's Notice of Appearance filed in the instant action, <http://saporitoenergyconsultants.com/FPSC.html> he has represented his interests and the interests of the general public before the 11<sup>th</sup> Circuit Court of Appeals and in proceedings brought before the United States Nuclear Regulatory Commission ("NRC") regarding FPL's operation of

its nuclear power plants. Where Mr. Saporito was granted standing to participate before the 11<sup>th</sup> Circuit Court of Appeals and where Mr. Saporito has intervened before the NRC at public hearings, he has amply demonstrated his qualifications to intervene in the instant action before the FPSC representing his interests, SEC's interests and the interests of FPL's customers for which Mr. Saporito and SEC are customers of FPL.

#### **CONCLUSION**

For all the foregoing reasons, Mr. Saporito and SEC should be allowed to intervene in the instant action as a matter of law.

Respectfully submitted,



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**CERTIFICATE OF SERVICE**

I **HEREBY CERTIFY**, that a true and correct copy of the foregoing document was provided by electronic means or by FAX or by U.S. Mail first class postage affixed, to the following on this 23<sup>rd</sup> day of August 2008.

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