

**Ruth Nettles**

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**From:** LOWE, AMY [AMY.LOWE@fpl.com]  
**Sent:** Tuesday, March 03, 2009 5:00 PM  
**To:** Filings@psc.state.fl.us  
**Cc:** James W. Brew; James M. Walls; Dianne Triplett; Charles Rehwinkel; kelly.jr@leg.state.fl.us; paul.lewisjr@pgn.mail.com; John Burnett; ataylor@bbrslaw.com; KSTorain@potashcorp.com; RMiller@pcsphosphate.com; Lisa Bennett; Keino Young; Cano, Jessica; SaporitoEnergyConsultants@gmail.com; saporito3@gmail.com; Anderson, Bryan  
**Subject:** Electronic Filing - Docket # 090009  
**Attachments:** FPL's Response to Notice Filed by Saporito Energy Consultants.doc

**Electronic Filing**

a. Person responsible for this electronic filing:

Jessica A. Cano, Esq.  
Florida Power & Light Company  
700 Universe Boulevard  
Juno Beach, FL 33408  
(561) 304-5253  
[Jessica.Cano@fpl.com](mailto:Jessica.Cano@fpl.com)

b. Docket No. 090009-EI

IN RE: Nuclear Power Plant Cost Recovery Clause

c. The documents are being filed on behalf of Florida Power & Light Company.

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

e. The document attached for electronic filing is:

FPL's response to Notice Filed by Saporito Energy Consultants

Regards,

—  
*Amy Lowe*, CLA  
Certified Legal Assistant  
Senior Legal Assistant to  
Bryan Anderson, Managing Attorney  
Florida Power & Light Company  
Office: (561) 304-5608 Fax: (561) 691-7135  
Email: [amy.lowe@fpl.com](mailto:amy.lowe@fpl.com)

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Kmf*

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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Nuclear Power Plant )  
Cost Recovery Clause )

Docket No. 090009-EI  
Filed: March 3, 2009

**RESPONSE TO SAPORITO ENERGY CONSULTANT'S  
NOTICE OF INTENT TO RETAIN INTERESTED PARTY STATUS  
AND PETITION TO OBTAIN PARTY STATUS**

Florida Power & Light Company ("FPL") respectfully responds to the Notice of Intent to Retain Interested Party Status and Petition to Obtain Party Status filed by Thomas Saporito as an individual, and representing Saporito Energy Consultants ("SEC"), and states as follows.

**Background and Summary**

On February 24, 2009, Mr. Saporito filed a "Notice of Intent to Retain Interested Party Status and Petition to Obtain Party Status" as an individual and as a representative of SEC in this docket. FPL has no objection to the participation of Mr. Saporito or Saporito Energy Consultants as an "interested party." However, to the extent the intention of this filing is to "obtain party status" through intervention, FPL does object.

To the extent the "request to obtain party status" is construed as a petition to intervene, such intervention should be denied. The request as filed does not allege any facts entitling Mr. Saporito or SEC to intervene in this proceeding under Florida law. *See Agrico Chemical Co. v. Department of Environmental Regulation*, 406 So. 2d 478, 482 (Fla. 2<sup>nd</sup> DCA 1981). Additionally, Mr. Saporito does not plead the elements for intervention required by Section 120.52(12)(b), Florida Statutes, and Rule 25-22.039, Florida Administrative Code. Rule 25-22.039 states in relevant part:

Persons, other than the original parties to a pending proceeding, who have a substantial interest in the proceeding, and who desire to become parties

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may petition the presiding officer for leave to intervene. Petitions for leave to intervene must include allegations sufficient to demonstrate that the intervenor is entitled to participate in the proceedings as a matter of constitutional or statutory right or pursuant to Commission rule, or that the substantial interests of the intervenor are subject to determination or will be affected though the proceeding.

Review of the request shows that it contains (i) no allegation by Mr. Saporito of an entitlement to intervene based upon any constitutional or statutory right or Commission rule; and (ii) no mention of any “substantial interest” of Mr. Saporito entitled to protection in this proceeding. Absent such a showing, intervention should be denied.

**Conclusion**

WHEREFORE, for all of the foregoing reasons, FPL respectfully requests that the Commission deny the request for intervention filed by Thomas Saporito, as an individual, and representing Saporito Energy Consultants.

Respectfully submitted this 3rd day of March, 2009.

Jessica A. Cano  
Attorney  
Florida Power & Light Company  
700 Universe Boulevard  
Juno Beach, Florida 33408-0420

By: s/ Jessica A. Cano  
Jessica A. Cano  
Fla. Bar No. 0037372

**CERTIFICATE OF SERVICE  
DOCKET NO. 090009-EI**

I HEREBY CERTIFY that a true and correct copy of Florida Power & Light Company's response was served by electronic delivery this 2nd day of March, 2009 to the following:

Jennifer Brubaker, Esq.\*  
Lisa Bennett, Esq.  
Division of Legal Services  
Florida Public Service Commission  
2540 Shumard Oak Blvd.  
Tallahassee, Florida 32399-0850

J. Michael Walls, Esq.  
Dianne M. Triplett, Esq.  
Carlton Fields Law Firm  
P.O. Box 3239  
Tampa, Florida 33601-3239

John W. McWhirter, Jr., Esq.  
McWhirter Reeves  
Attorneys for FIPUG  
400 North Tampa Street, Suite 2450  
Tampa, Florida 33602

James W. Brew, Esq.  
Brickfield, Burchette, Ritts & Stone, P.C.  
1025 Thomas Jefferson Street, NW,  
Eighth Floor, West Tower  
Washington, DC 20007-5201

Thomas Saporito  
P.O. Box 8413  
Jupiter, FL 33468  
Saporitoenergyconsultants@gmail.com

J. R. Kelly, Esq.  
Charles Rehwinkel, Esq.  
Office of Public Counsel  
c/o The Florida Legislature  
111 West Madison Street, Room 812  
Tallahassee, Florida 32399

R. Alexander Glenn, Esq.  
John T. Burnett, Esq.  
Progress Energy Service  
Company, LLC  
P.O. Box 14042  
St. Petersburg, Florida 33733-4042

Michael B. Twomey, Esq.  
Attorney for AARP  
Post Office Box 5256  
Tallahassee, Florida 32314-5256

Mr. Paul Lewis, Jr.  
106 East College Ave., Suite 800  
Tallahassee, FL 32301-7740

By: s/ Jessica A. Cano  
Jessica A. Cano