

**Ruth Nettles**

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**Subject:** Docket No.: 080677-EI  
**Attachments:** Docket No. 080677-EI - Pet. to Intervene.pdf

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Docket No.: 080677-EI

In Re: Petition for Increase in Rates by Florida Power & Light Company

Party: City of South Daytona

No. of Pages: 5

Name of Document: Petition to Intervene of the City of South Daytona, Florida

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DOCUMENT NUMBER-DATE

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4/14/2009

FPSC-COMMISSION CLERK

**BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

In Re: Petition for increase in rates by )  
Florida Power & Light Company )  
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\_\_\_\_\_ )

DOCKET NO. 080677-EI  
FILED

**PETITION TO INTERVENE OF THE CITY OF SOUTH DAYTONA, FLORIDA**

The City of South Daytona, Florida ("City"), pursuant to Chapter 120, Florida Statutes, and Rules 25-22.039 and 28-106.205 Florida Administrative Code ("F.A.C."), by and through its undersigned counsel, hereby files this Petition requesting that the Florida Public Service Commission ("Commission") authorize the City's intervention in the above styled proceeding, concerning the rate increase proposed by Florida Power & Light ("FPL"). In further support of this Petition, the City states as follows:

1. The name, address, and telephone number of Petitioner, the City of South

Daytona, Florida, are as follows:

City of South Daytona  
Attn: Joseph W. Yarbrough, City Manager  
City of South Daytona  
P.O. Box 214960  
South Daytona, Florida 32121  
Telephone: (386) 322-3010  
Facsimile: (386) 322-3008  
E-mail: [jyarbrough@southdaytona.org](mailto:jyarbrough@southdaytona.org)

2. All pleadings, orders and correspondence should be directed to Petitioner's representatives as follows:

Brian P. Armstrong, Esq.  
Marlene K. Stern, Esq.  
Nabors, Giblin & Nickerson, P.A.  
1500 Mahan Drive, Suite 200  
Tallahassee, Florida 32308

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with a courtesy copy to:

Scott E. Simpson, Esq.  
Korey, Sweet, McKinnon, Simpson and Vukelja  
Granada Oaks Professional Building  
595 West Granada Blvd., Suite A  
Ormond Beach, FL 32174-9448  
Telephone: (386) 677-3431  
Facsimile: (386) 673-0748  
E-Mail: simpson66@bellsouth.net

3. The agency affected by this Petition to Intervene is:

Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, Florida 32399-0850

4. In this docket the Commission will decide whether to approve FPL's request for a rate increase. The City is located in Volusia County, Florida, and is a customer of FPL. The City currently pays a substantial amount of money to FPL for electric service, and this proceeding will determine the rates that the City is required to pay to FPL for electric service starting in January 2010.

5. To intervene the City must show that its substantial interests will be affected by this proceeding. See Section 120.569, Florida Statutes (2008). To show its substantial interests will be affected, the City must show that it will suffer an actual and immediate injury against which the proceeding is designed to protect. Ameristeel Corp. v. Clark, 691 So. 2d 473 (Fla. 1997); Agrico Chemical So. v. Dept of Environmental Regulation, 406 So. 2d 478 (Fla. 2d DCA 1981).

6. As a customer of FPL, the City's interests will be actually and immediately affected by changes to FPL's rates. If a rate increase is approved, the City's cost for electricity

will rise. The proceeding is designed to set new rates for FPL and to ensure that those rates are fair, just, reasonable, and non-discriminatory. The City is entitled to participate in this proceeding to protect its interests in receiving electricity at a fair, just, reasonable, and non-discriminatory rate.

7. Disputed Issues of Material Fact. The City believes that the disputed issues of material fact in this proceeding will include, but will not necessarily be limited to, the issues listed below. The City expects that numerous additional, specific issues will be identified and developed as this docket progresses, and the City reserves the right to raise additional issues in accordance with the Commission's rules and the Order Establishing Procedure in this case.

Issue: What are the appropriate jurisdictional values of FPL's Plant in Service, Accumulated Depreciation, and Rate Base for setting FPL's rates in this docket?

Issue: What is the appropriate used and useful level of FPL's Plant in Service?

Issue: What are the appropriate jurisdictional values of FPL's operation and maintenance expenses for setting FPL's rates in this docket?

Issue: What is the appropriate capital structure for FPL for the purpose of setting FPL's rates in this docket?

Issue: Is the requested 12.5% return on equity reasonable for the purpose of setting FPL's rates in this docket?

Issue: Is a projected 2010 calendar year an appropriate test year for rate-setting purposes?

Issue: Is the "Subsequent Year Adjustment" of 2011 proposed by FPL authorized under applicable law and reasonable to use for rate-setting purposes?

Issue: What are the appropriate depreciation rates?

Issue: Is FPL's proposed rate design "to achieve parity among the different rate classes" appropriate and reasonable?

Issue: Is FPL's proposed base rate adjustment formula regarding the application of the Commission's Nuclear Cost Recovery Rule appropriate?

8. Statement of Ultimate Facts Alleged. It is FPL's burden to prove that it is entitled to the rate increase requested. The City is a customer of FPL and is entitled to intervene to ensure that its costs for electricity are based on fair, just, reasonable, and non-discriminatory rates.

9. Relief Requested. The City respectfully requests that its Petition to Intervene be granted, and that thereafter all parties to this proceeding be required to serve on the City's counsel copies of all documents filed with the Clerk of the Public Service Commission.

Respectfully Submitted,



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(850) 224-4073 Facsimile

Attorneys for the City of South Daytona

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by electronic and U.S. Mail to the service list below, on this 14th day of April, 2009.

Florida Power & Light Company  
Mr. Wade Litchfield  
215 South Monroe Street, Suite 810  
Tallahassee, FL 32301-1859

Florida Power & Light Company  
John T. Butler  
700 Universe Boulevard  
Juno Beach, FL 33408-0420

Florida Power & Light Company  
Ken Hoffman, Vice President of  
Regulatory Relations  
215 South Monroe Street, Suite 810  
Tallahassee, FL 32301-1859

Office of Public Counsel  
J. R. Kelly  
c/o The Florida Legislature  
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Jennifer Brubaker  
Office of the General Counsel  
Florida Public Service Commission  
2540 Shumard Oak Blvd  
Tallahassee, FL 32399-1400

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Robert A. Sugarman  
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100 Miracle Mile, Suite 300  
Coral Gables, FL 33134

Saporito Energy Consultants  
Thomas Saporito  
Post Office Box 8413  
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BRIAN P. ARMSTRONG