

Marguerite McLean

100410-EI

From: rpjrb@yahoo.com
Sent: Monday, November 29, 2010 4:15 PM
To: Filings@psc.state.fl.us; John.Butler@fpl.com
Subject: MOTION FOR FLORIDA POWER & LIGHT TO ANSWER QUESTION 3 TO STAFF'S DATA REQUEST NO.1 IN ORDER TO INSPECT AND EXAMINE THE ANSWER TO QUESTION 3
Attachments: Motionletterdated11292010Docket100410.pdf

Dear Ann Cole, Office of Commission Clerk and Apryl Lynn, Division of Administrative Services and Mr. Butler,

Attached is the PDF filing for the motion email that I have sent on Friday, November 26th, 2010 at 10:11 AM. The attached PDF file is to serve as the electronically filed document based upon the E-Filing requirements as per Florida Public Service Commission Electronic Filing Requirements.

I am sending this to the above email addresses only to meet the E-Filing requirements as per Florida Public Service Commission Electronic Filing Requirements

Thanks,

Robert H. Smith

Confidentiality Statement

The documents accompanying this telecopy transmission contain information which is confidential and/or legally privileged. The information is intended only for the use of the individual or entity named on this transmission sheet. If you are not the intended recipient, you are hereby notified that any disclosure, copying, distribution or the taking of any action in reliance on the contents of this telecopied information is strictly prohibited, and the documents should be returned. In this regard, if you received this telecopy in error, please contact the sender by reply E-mail and destroy all copies of the original.

DOCUMENT NUMBER DATE
09632 NOV 29 09
FPSC - COMMISSION CLERK

Robert H. Smith
Ratepayer/Shareholder
11340 Heron Bay Blvd. #2523
Coral Springs, Florida 33076-1629

Ann Cole and Apryl Lynn
Office of Commission Clerk and
Division of Administrative Services
Florida Public Service Commission
2540 Shumard Oak Blvd.
Tallahassee, FL 32399-0850

RE: Docket 100410-EI / FPL Response to Staff Data Request No. 1 Question 3 11/16/2010 /Docket
080677/Docket 100009

Dear Ms. Lynn:

Enclosed is Robert H. Smith's motion to request Florida Power & Light to answer the Staff Data Request No. 1, Question 3 in order to inspect and examine the answer to Question 3, which I respectfully request based upon my Federal /State rights to inspect based upon the motion below.

Copies of the appeal will be served to all parties that have a legal interest in the proceeding as outlined below.

Sincerely,

/S Robert H. Smith

DOCUMENT NUMBER 080677
09632 NOV 29 2010
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Certificate of Service
Docket No. 100410-EI

I HEREBY CERTIFY that a true and correct copy of the appeal email dated November 26th, 2010 was served via electronic email on Friday, November 26th, 2010 and to filings@psc.state.fl.us on Monday, November 29th, 2010. The electronic filing today should not constitute a new filing since the original email filing has been sent on Friday, November 26th, 2010. All issues as outlined in the motion email dated Friday, November 26th, 2010 below has been sent to the parties listed below.

Electronic email dated Friday November 26th, 2010

Email: Lisa C. Bennett / LBENNETT@PSC.STATE.FL.US
Office of the General Counsel
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850
850-413-6230

Email: Kimberley Pena / KPen@PSC.STATE.FL.US
Chief Deputy Commission Clerk
Office of Commission Clerk
Florida Public Service Commission
2540 Shumard Oak Blvd.
Tallahassee, FL 32399-0850

Email: Office of Commissioner Edgar / Commissioner.Edgar@PSC.STATE.FL.US
Email: Office of Commissioner Skop / Commissioner.Skop@PSC.STATE.FL.US
Email: Office of Commissioner Graham / Chairman.Graham@psc.state.fl.us
Email: Office of Commissioner Brise / Commissioner.Brise@PSC.STATE.FL.US
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

Email: John T. Butler / John.Butler@fpl.com
Email: Ken Rubin / Ken_rubin@fpl.com
Email: Pat Bryan / Pat_Bryan@fpl.com
Email: Charles Sieving / Charles_Sieving@fpl.com
Email: Lew Hay / Lew_Hay@fpl.com
Florida Power & Light Company
700 Universe Boulevard
Juno Beach, FL 33408-0420

/s Robert H. Smith

Before the Florida Public Service Commission

In re:

Docket No. 100410-EI

Complaint by Robert H. Smith ratepayer/shareholder) Emailed Filed November 26th, 2010
with a legal interest for the answer/release of an) Electronically Filed November 29th, 2010
answer to the Staff Data Request No. 1, Question 3 in)
order to inspect and examine the answer to question 3)
that might have a legal impact on my legal interest in)
these proceeding as outlined by the appeal email dated)
November 26th, 2010.)

MOTION FOR FLORIDA POWER & LIGHT TO ANSWER QUESTION 3 TO
STAFF'S DATA REQUEST NO.1 IN ORDER TO INSPECT AND EXAMINE THE
ANSWER TO QUESTION 3

From: RSmith [rpjrb@yahoo.com] [mailto:rpjrb@yahoo.com]
Sent: Friday, November 26, 2010 10:11 AM
To: 'Lisa Bennett' <LBENNETT@PSC.STATE.FL.US>; 'John.Butler@fpl.com <John.Butler@fpl.com>';
'ken_rubin@fpl.com'; 'Pat_Bryan@fpl.com'; 'Charles_Sieving@fpl.com'; 'Lew_Hay@fpl.com'
Cc: 'Ann Cole'; 'Office Of Commissioner Edgar'; 'Office of Commissioner Skop'; 'Office Of Commissioner
Graham'; 'Office of Commissioner Brisé'; 'Kimberley Pena'; 'Ann Cole'; 'Office Of Commissioner Graham'
<Commissioner.Graham@PSC.STATE.FL.US>; 'Records Clerk'
Subject: Docket 100410 / FPL Response to Staff Data Request 11/16/2010 / Docket 080677 / Docket
100009

To all,

I have taken a quick look at the company's response with regard to Staffs questions for Florida Power &
Light. Here are some quick questions regarding the answer to Question 3 that they have indicated that
feel would be "very complex and time-consuming exercise". It appears that based upon rule 25-6.1352
Earnings Surveillance Report there is no indication in the rule that Florida Power & Light should be able
to reserve the right to indicate that the information is "not relevant or required by rule 25-6-1352".
Furthermore, Regulation FD, S-X and S-K are equally important to these proceedings since when we talk
about cash rates any requirements under the Energy Policy Act of 2005 or the Public Utility Holding Act
of 2005 would preempt any non-disclosure issues to protect Utility ratepayers. See Energy Policy Act of
2005 42 USC 15801 SEC 1261 to SEC 1270. This is a very critical piece of this case since the commission
would need this type of information to be in conformity with the Energy Policy Act of 2005 42 USC
15801 SEC 1261 to SEC 1270. Any analysis for the justification of approving the Stipulation and
Settlement agreement would require for full transparency and the release of any information that might
impact the ruling on the proposed Stipulation and Settlement Agreement. If the information is not
furnished to the Commission and/or other interested parties with a legal interest, then pertinent
questions might not be able to be asked for the justification of the approval of the proposed Stipulation
and Settlement agreement. Under 42 USC 15801 SEC 1265(a) (3), the State Commission should have
access to the books and records of the company that "are necessary for the effective discharge of the
responsibilities of the State Commission with respect to such proceeding." The release of any analysis
that would be needed before a ruling on the proposed Stipulation and Settlement agreement would be

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warranted based upon this section of the Statute. This might preempt rule 25-6-1352. Furthermore, based upon my previous appeal (Docket 080677) for a Motion to inspect and examine confidential material which appears to be afforded under my rights under Title 5 of §557(d) (1), §557(a), §556, §553(c), §554(a) of the Administrative Procedure Act, Freedom of Information Act (FOIA), 5 U.S.C. § 552 and 350.042, 350.117 of the Florida Statutes it appears that if this type of analysis is not completed and made part of Public Docket 080677, 100009 and 100410 respectively, then the possibility exists that the proper due diligence might not have been completed to justify the ruling on the proposed Stipulation and Settlement agreement. This is why I followed up with an email with questions regarding similar/additional questions to the company which will be made part of the Public record in Docket 080677, Docket 100009 and Docket 100410 respectively. This type of analysis would be required by any party with a legal interest to see if there is full justification for the approval of the proposed Stipulation and Settlement agreement. Without fully taking a look at the impacts of the proposed Stipulation and Settlement agreement and the effects on the company's rates with or without the agreement, the due diligence to approve this agreement might not meet the requirements under the Energy Policy Act of 2005. In the event the agreement is approved without the proper analysis, the cash rates would have already been set without the ability to rule on any potential future cost of service reductions for the term of the Stipulation and Settlement Agreement. This is why I have sent an email to the company requesting answers to specific questions regarding the Provisional Electric Forecasted Earnings Surveillance report. All three Dockets are very important to the pending Stipulation and Settlement Agreement. They all are tied in with any decisions related to setting the cash rates at the company.

Please take a look at my evaluations that I have provided to be entered into the public record regarding the type of 5 year forecasts that I have put together. We would be able to forecast on a monthly basis any Balance Sheet, Profit & Loss, Cash Flow and ratios for the company including ratemaking earnings and GAAP earnings for Earnings per share. This would include Ratebase reports in order for us to be able to calculate our over earnings on a monthly/annual basis. The ratebase reports would be able to calculate 13 month averages (rolling) as well. If you look at what they have provided with their response they have provided an annual analysis. Where did these numbers come from? Did they come from the model runs or how were these calculated? Are they using the accounting department to calculate these reports or are they using their Financial Planning/Budget Department to run the reports? Usually the Financial Planning/Budget department would be running the ratecase forecasts. They should be able to run these based upon their forecast models.

Take a look at my resume as well (part of the public record). I have computed the companies Theoretical Depreciation Studies as well for the company. We also at times had an over recovery of depreciation. We would compute these on an annual basis and if there was an over recovery we would give this money back through an amortization if necessary. We would be able to model this type of issue with any order that we have received from the New York State Public Service Commission. Our model would be able to forecast debt/equity changes for the issuance and retirements of Long Term Debt and Equity. This is why in my previous email I am asking about the adjustments to Long Term Debt Provisional Earnings Surveillance report that was filed.

I would think that they should be using their models to forecast any orders and/or Stipulation and agreements. Why are they are taking a look at this from an actual approach? This would only make sense for the historic 2010 rate year since 2010 is almost done. If they have the ability to load monthly actual(s) into their forecast model they would then be able to reforecast the full year and subsequent rate years to see the impacts of any order and/or settlement agreement. They can even load the order

and proposed settlement and stipulation agreement into their original forecast that they have put together. This of course assumes that they are using a forecast model to produce their rate cases.

Please let me know if you need for me to file another motion in Docket 100410 with regard to my concerns that the company has indicated that it would be too time consuming to complete the ESR's without the effects of the proposed Stipulation and Settlement Agreement. The case is already been going on for a year and there should have been ample time to recalculate the ESR's based upon the original order and/or with/without the Stipulation and Settlement Agreement. Based upon my questions/responses below, my evaluations indicates how we computed our analysis with regard to any type of ratecase proceeding(s) and/or Stipulation and Settlement Agreement(s). There should be no reason why the appropriate documentation cannot be prepared to support the final decision. In order for any party with a legal interest to protect their interest(s) with the impacts of the Stipulation and Settlement Agreement, all analysis should be fully transparent and made part of the public Docket before any ruling can be made and approved. There really is no reason why the company would not want to furnish information to support their position. The answer to question 3 with regard to not providing the ESR's without the effects of the Stipulation and Settlement agreement indicating that it is "very complex and time-consuming exercise" might be a similar type of position just like not initially disclosing the Provisional Electric Forecasted Earnings report. Any party with a legal interest will not have the ability to review and question any type of information that might have an impact on the decision on the proposed Stipulation and Settlement agreement. This would be by nature of lack of transparency. All potential relevant information should be fully disclosed which would afford any party with a legal interest(s) full transparency/discovery which would be supported by various Federal/State laws. Preemption under these laws would provide the avenue for full disclosure and transparency. This would require the company to provide any type of analysis that would be needed in order to substantiate any ruling on the proposed Stipulation and Settlement Agreement. This ruling on cash rates will impact all three Dockets (080677, 100009 and 100410 respectively).

Staff's Question:

3. **Per pages 30 and 35 of the Company's Form 10-Q for the quarter ended September 30, 2010, the condensed consolidated financial statements reflect the effects of the proposed, but not yet approved, stipulation and settlement in Docket No. 080677-EI. Has FPL included the effects of the proposed stipulation and settlement in any of its filed ESRs for 2010? If so, please identify which month(s) and refile the ESRs excluding the effects of the proposed stipulation and settlement.**

Florida Power & Light response

For reasons more fully discussed below, FPL believes that Question 3 seeks information that is not relevant or required by Rule 25-6.1352. Nevertheless, without waiving any of FPL's rights with respect to the interpretation of that rule, FPL provides the following information in response.

Creating seven restated hypothetical monthly ESRs would be a very complex and time-consuming exercise. The Commission Staff previously asked FPL to restate the monthly ESRs for March and April 2010 to reflect the impact of Commission

Robert Smith's Questions/Responses

I have a couple of questions regarding the answer to Question 3.

1. What did the company file when it filed its original request for their base rate increase in Docket 080677? Were these monthly forecasts?
2. Did they file monthly Balance Sheets, Profit and Loss Statements, Cash Flow statements and ratios with the filing?
3. How come the company does not have the ability to run their forecast models to model the original order (Order No. PSC-10-0153-FOF-E1 ("Order 0153") that the Florida Public Service Commission has issued? If they are able to run this forecasted model then they would be able to complete the surveillance reports off of these model runs.
4. How come the company does not have the ability to run their forecast models to model the pending Stipulation and Settlement Agreement? If they are able to run this forecasted model then they would be able to complete the surveillance reports off of these model runs.
5. Are they using a forecasting model to forecast their future rate requirements? Are these monthly models? Usually industry standard would be to be able to forecast 5 year monthly forecasts/earnings plans so that they can calculate their cost of service needs and/or GAAP Earnings per share (EPS) for 5 years. They usually complete 5 year monthly short range analysis and annual long range analysis. This forecasting can be based upon their model runs and the need to interface with their actual accounting systems to forecast the depreciation surplus amortization should be able to be completed with their short range model or on an annual basis

with their long range model. I am sure that actual data is loaded from their historic accounting systems into their forecasting models on an automated basis.

When I worked up North and I was providing these forecasts we would be able to fully model our 5 year forecasts on a monthly basis. Our models would interface with various areas of the company (i.e. Actual Accounting data (historic), revenue models (Electric & Gas Revenue), O&M models (Capital/Expense) and tax models (permanent differences, timing differences, FASB 109, AMT, Tax credits, etc.) We would be able to produce full monthly Balance Sheets, Profit & Loss statements, Cash Flow statements, Rate Base Reports and ratios (equity ratios, Times Interest Earned with AFDC etc.) From these reports we were able to produce our excess earnings (Surveillance reports) that would match our 5 year monthly runs. If we had to model an order or a Administrative Law Judge (ALJ) decision to see the impacts on our rates for the test year and/or forecast years we were able to do so with rerunning the model runs based upon the requirements of the order or ALJ decision. I am sure that at this point and time Florida Power & Light would have the ability to run their forecast models to match any order or pending Settlement and Stipulation agreement. I completed this type of work back in the 90's and I am sure that the modeling technology has improved since then. Based upon the amortization of the Surplus Depreciation reserve they should be able to journalize the impact on ratebase and the cost of service on a monthly/annual basis. Their models should be able to rerun the monthly cost of service with any new assumptions.

Below are some of the pertinent Federal/State laws that would be applicable with these cases.

Let me know if I have to formalize this as a motion in Docket 100410. Please make this email part of Docket 080677, Docket 100009 and Docket 100410 respectively.

I can only hope that none of these communications regarding these rate cases will impact my prospects for current/future employment and the well being of my family.

If you have any questions please do not hesitate to email me at rpjrb@yahoo.com or give me a call at 954-340-4956.

Hopefully there are no typo(s).

Thanks,

Robert H. Smith

S/Robert H. Smith

(7)(a) Any person may file a petition to inspect and examine any material which the Commission has ruled exempt from Section 119.07(1), Florida Statutes, or which is exempted under paragraph (3)(d) pending the Commission's ruling or as the result of the filing of a notice of intent to request confidentiality. A copy of the petition must be served on the affected utility or person which shall have 10 days to file a response as to why the material should remain exempt. The petitioner shall have 7 days to file a reply to the filed response. The Commission may set the matter for hearing or issue a

ruling on the pleadings. Material obtained by the Commission in connection with an inquiry shall not be subject to requests for inspection and examination until after the inquiry is terminated.

(b) A finding of confidentiality notwithstanding, a source may consent to inspection or examination by any person. Such consent shall not constitute a waiver of confidentiality and only the person specified in the consent may inspect or examine the material. The Commission may be requested to issue a protective order to recognize the terms and conditions of the consent. All persons are urged to seek mutual agreement regarding access prior to bringing a controversy to the Commission.

119.07 Inspection, examination, and duplication of records; exemptions.--

(1)(a) Every person who has custody of a public record shall permit the record to be inspected and examined by any person desiring to do so, at any reasonable time, under reasonable conditions, and under supervision by the custodian of the public record or the custodian's designee. The custodian shall furnish a copy or a certified copy of the record upon payment of the fee prescribed by law or, if a fee is not prescribed by law, for duplicated copies of not more than 14 inches by 8 1/2 inches, upon payment of not more than 15 cents per one-sided copy, and for all other copies, upon payment of the actual cost of duplication of the record. An agency may charge no more than an additional 5 cents for each two-sided duplicated copy. For purposes of this section, duplicated copies shall mean new copies produced by duplicating, as defined in s. 283.30. The phrase "actual cost of duplication" means the cost of the material and supplies used to duplicate the record, but it does not include the labor cost or overhead cost associated with such duplication. However, the charge for copies of county maps or aerial photographs supplied by county constitutional officers may also include a reasonable charge for the labor and overhead associated with their duplication. Unless otherwise provided by law, the fees to be charged for duplication of public records shall be collected, deposited, and accounted for in the manner prescribed for other operating funds of the agency. An agency may charge up to \$1 per copy for a certified copy of a public record.

Here are the applicable statutes under the Energy Policy Act.

Energy Policy Act of 2005.
42 USC 15801
SEC. 1261. SHORT TITLE.

This subtitle may be cited as the "Public Utility Holding Company Act of 2005".

Under Section 1265(a) (3), the State Commission should have access to the books and records of the company that "are necessary for the effective discharge of the responsibilities of the State Commission with respect to such proceeding." The release of any analysis that would be needed before a ruling on the Settlement and Stipulation agreement would be warranted based upon this section of the Statute. This might preempt rule 25-6-1352.

SEC. 1265. STATE ACCESS TO BOOKS AND RECORDS.

(a) **IN GENERAL.**—Upon the written request of a State commission having jurisdiction to regulate a public-utility company in a holding company system, the holding company or any associate company or affiliate thereof, other than such public-utility company, wherever located, shall produce for inspection books, accounts, memoranda, and other records that—

(1) have been identified in reasonable detail in a proceeding before the State commission;

(2) the State commission determines are relevant to costs incurred by such public-utility company; and

(3) are necessary for the effective discharge of the responsibilities of the State commission with respect to such proceeding.

SEC. 1267. AFFILIATE TRANSACTIONS.

(a) **COMMISSION AUTHORITY UNAFFECTED.**—Nothing in this subtitle shall limit the authority of the Commission under the Federal Power Act (16 U.S.C. 791a et seq.) to require that jurisdictional rates are just and reasonable, including the ability to deny or approve the pass through of costs, the prevention of cross-subsidization, and the issuance of such rules and regulations as are necessary or appropriate for the protection of utility consumers.

(b) **RECOVERY OF COSTS.**—Nothing in this subtitle shall preclude the Commission or a State commission from exercising its jurisdiction under otherwise applicable law to determine whether a public-utility company, public utility, or natural gas company may recover in rates any costs of an activity performed by an associate company, or any costs of goods or services acquired by such public-utility company from an associate company.

As per FAS 131 / Accounting Principles and Allocations

84. The Board decided not to require that segment information be provided in accordance with the same generally accepted accounting principles used to prepare the consolidated financial statements for several reasons. Preparing segment information in accordance with the generally accepted accounting principles used at the consolidated level would be difficult because some generally accepted accounting principles are not intended to apply at a segment level. Examples include allocation of the cost of an acquisition to individual assets and liabilities of a subsidiary using the purchase method of accounting, accounting for the cost of enterprise-wide employee benefit plans, accounting for income taxes in an enterprise that files a consolidated income tax return, and accounting for inventory on a last-in, first-out basis if the pools include items in more than one segment. In addition, there are no generally accepted accounting principles for allocating joint costs, jointly used assets, or jointly incurred liabilities to segments or for pricing intersegment transfers. As a consequence, it generally is not feasible to present segment profitability in accordance with generally accepted accounting principles.

87. The Board believes that the information required by this Statement meets the objective of reliability of which both representational faithfulness and verifiability are components. An auditor can determine whether the information reported in the notes to the financial statements came from the required source by reviewing management reports or minutes from meetings of the board of directors. The information is not required to be provided on a specified basis, but the enterprise is required to explain the basis on which it is provided and to reconcile the segment information to consolidated enterprise totals. Adequate explanation and an appropriate

reconciliation will enable a user to understand the information and its limitations in the context of the enterprise's financial statements. The auditor can test both the explanation of segment amounts and the reconciliations to consolidated totals. Furthermore, because management uses that information in its decision-making processes, that information is likely to be highly reliable.

The information provided to comply with Statement 14 was more difficult to verify in many situations and was less reliable. Because it was prepared solely for external reporting purposes, it required allocations that may have been arbitrary, and it was based on accounting principles that may have been difficult to apply at the segment level.

Title 17: Commodity and Securities Exchanges

[Browse Previous](#) | [Browse Next](#)

PART 210—FORM AND CONTENT OF AND REQUIREMENTS FOR FINANCIAL STATEMENTS, SECURITIES ACT OF 1933, SECURITIES EXCHANGE ACT OF 1934, PUBLIC UTILITY HOLDING COMPANY ACT OF 1935, INVESTMENT COMPANY ACT OF 1940, INVESTMENT ADVISERS ACT OF 1940, AND ENERGY POLICY AND CONSERVATION ACT OF 1975

Regulation S-X

Special Requirements as to Public Utility Holding Companies

Reg. § 210.3A-05.

There shall be shown in the consolidated balance sheet of a public utility holding company the difference between the amount at which the parent's investment is carried and the underlying book equity of subsidiaries as at the respective dates of acquisition.

Regulation S-K

§ 229.10 (Item 10) General.

Instructions to Item 101.

1. In determining what information about the segments is material to any understanding of the registrant's business taken as a whole and therefore required to be disclosed pursuant to

paragraph (c) of this Item, the registrant should take into account both quantitative and qualitative factors such as the significance of the matter to the registrant (e.g., whether a matter with a relatively minor impact on the registrant's business is represented by management to be important to its future profitability), the pervasiveness of the matter (e.g., whether it affects or may affect numerous items in the segment information), and the impact of the matter (e.g., whether it distorts the trends reflected in the segment information). **Situations may arise when information should be disclosed about a segment although the information in quantitative terms may not appear significant to the registrant's business taken as a whole.**

2. Base the determination of whether information about segments is required for a particular year upon an evaluation of interperiod comparability. For instance, interperiod comparability would require a registrant to report segment information in the current period even if not material under the criteria for reportability of SFAS No. 131 if a segment has been significant in the immediately preceding period and the registrant expects it to be significant in the future.
3. The Commission, upon written request of the registrant and where consistent with the protection of investors, may permit the omission of any of the information required by this Item or the furnishing in substitution thereof of appropriate information of comparable character.

2. The Company utilizes its legacy Regulatory Interface System to produce its monthly earnings surveillance reports. This system was developed to operate in an Oracle database environment. It is designed to pull thousands of lines of transactional information at the cost of service-specific level, from multiple other mainframe interface programs in order to produce monthly regulatory financial statements. These statements are based on actual results, as adjusted to reflect the proper regulatory retail rate base, net operating income and earnings along with various financial indicators.

3. Contrasting this RIS system design with that of a standard general ledger system may be helpful. General ledger systems are generally designed with a recognition that financial closings and consolidations may actually occur more than once in a month due to identified errors or updated information. In rare occasions, restatements of prior financial results may be required. So, standard general ledger systems will typically allow "topside adjusting" journal entries. In contrast, the RIS system was never built with the intent that ESRs be reproduced under another set of assumptions. It was designed to do the following: (1) feed actual results, (2) run specifically sequenced interfaces to pull data from the plant, GL and revenue systems, (3) calculate and overlay required manual adjustments, (4) produce, and (5) validate the reports. This process is performed once for each reporting month; the following month, this process begins again. The typical time frame to complete an ESR from start to finish is 4-5 weeks.

4. Given this design, the first thing we must do to restate an ESR is to eliminate controls which have been built into the RIS code to prohibit changes being made after the fact to the system's historical data files. To make changes to the historical results, we must copy the RIS database to a test environment, reload all required interfaces in their specific required sequence, reenter all manual adjustments to the inputs to reflect whatever parameters are being restated, and produce and validate new, hypothetical ESR results. This is a very complex and technical exercise requiring coordination our Information Management department (which is knowledgeable about the programming of RIS) with our Accounting and Finance personnel (who know the data that is processed). We will need to maintain the test environment to continue to produce future, restated ESRs if directed to do so by the Commission.

5. FPL has estimated that it would take approximately three months (90 days) to generate restated ESRs for the seven months from March to September 2010. This estimate is conservative because it assumes that FPL can generate each restated ESR in a little less than two weeks, notwithstanding that the ESRs initially require 4-5 weeks each to generate and much of the work required to generate a new ESR also would be required to generate a restated ESR.

25-6.1352 Earnings Surveillance Report.

(1) Each investor-owned electric utility shall file rate of return data using Commission Form PSC/ECR 14 (6/94), which is incorporated by reference into this rule. Form PSC/ECR 14, entitled "Investor-Owned Electric Utility Earnings Surveillance Report," may be obtained from the Commission's Division of Economic Regulation.

(2) The report shall be filed:

(a) Monthly, by the 15th day of the second month following the reported month for electric utilities with 50,000 or more customers.

(b) Quarterly, by the 15th day of the second month following the reported quarter for electric utilities with less than 50,000 customers.

(3) A utility may file a written request for an extension of time with the Division of Economic Regulation prior to the due date of the report. One extension of 31 days will be granted upon request. A request for Commission approval of a longer extension must be accompanied by a statement of good cause and shall specify the date by which the report will be filed.

Specific Authority 350.127(2), 366.05(1) FS. Low Implemented 350.117(1), 366.04(2)(f) FS. History--New 6-9-94, Amended 3-14-96.



Florida Power & Light Company, 215 S. Monroe Street, Suite 810, Tallahassee, FL 32301

John T. Butler
Managing Attorney
Florida Power & Light Company
700 Universe Boulevard
Juno Beach, FL 33408-420
(561) 304-5639
(561) 691-7135 (Facsimile)
Email: John.Butler@fpl.com

RECEIVED TPSC
10 NOV 23 PM 4:30
COMMISSION
CLERK

November 23, 2010

VIA HAND DELIVERY

Ms. Ann Cole
Commission Clerk
Florida Public Service Commission
2540 Shumard Oak Boulevard, Room 110
Tallahassee, FL 32399-0850


RE: Docket No. 100410-E1

Dear Ms. Cole:

Enclosed for filing on behalf of Florida Power & Light Company ("FPL") are the original and five (5) copies of its responses to Staff's Data Request No. 1, dated November 16, 2010. FPL is enclosing copies of the affidavit of Kim Ousdahl, Vice President, Controller and Chief Accounting Officer of FPL, which is Attachment 1 to its response to Question 3 in Data Request No. 1. The original of Ms. Ousdahl's affidavit will be filed under separate cover tomorrow.

Please contact me if you or your Staff has any questions regarding this filing.

Sincerely,


for John T. Butler

COM _____ Enclosure
APA |
ECF | 3
GCL |
RAD |
SSC |
ADM |
OPC |
CLK |
an FPL Group company

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	ESR SCHED	FPSC ROE CALCULATION	HYPOTHETICAL FLOWBACK ADJUSTMENT	HYPOTHETICAL FPSC ROE ADJUSTED	PROFORMA* ADJUSTMENTS	HYPOTHETICAL PROFORMA ROE CALCULATION
RATE BASE	1.1, 2.1	15,748,783	1,572	15,750,355		15,750,355
NET OPERATING INCOME	1.1, 2.2	1,081,821	12,552	1,094,373	(80,065)	1,004,308
RATE OF RETURN	1.1	6.87%		6.90%		6.36%
NON EQUITY COST RATES	4.1, 5.1	1.74%		1.74%		1.74%
NET	5.1	5.13%		5.23%		4.64%
EQUITY RATIO	4.1	46.61%		46.61%		46.61%
RETURN ON EQUITY	1.1	11.00%		11.17%		9.98%

*Note: Weather normalization adjustment of \$146.7 million before taxes.

350.117 Reports; audits.--

- (1) The commission may require such regular or emergency reports, including, but not limited to, financial reports, as the commission deems necessary to fulfill its obligations under the law.
- (2) The commission may perform management and operation audits of any regulated company except railroads. The commission may consider the results of such audits in establishing rates; however, the company shall not be denied due process as a result of the use of any such management or operation audit.
- (3) As used in this section, "management and operation audit" means an appraisal, by a public accountant or other professional person, of management performance, including a testing of adherence to governing policy and profit capability; adequacy of operating controls and operating procedures; and relations with employees, customers, the trade, and the public generally.

PERFORMANCE RATING DEFINITIONS

Use the rating scale below when evaluating the employee's performance objectives.

1. PERFORMANCE SIGNIFICANTLY EXCEEDS ALL JOB STANDARDS IN TERMS OF QUALITY AND QUANTITY. ACHIEVEMENTS ARE EXCEPTIONAL AND CONSISTENTLY EXCEED EXPECTED RESULTS
2. PERFORMANCE CONSISTENTLY EXCEEDS MOST JOB STANDARDS IN BOTH QUALITY AND QUANTITY. ACHIEVEMENTS EXCEED EXPECTED RESULTS.
3. PERFORMANCE MEETS ALL EXPECTED REQUIREMENTS OF THE POSITION AND IS CLEARLY IN ACCORD WITH JOB DEMANDS.
4. PERFORMANCE MEETS SOME BUT NOT ALL EXPECTED JOB REQUIREMENTS. FURTHER IMPROVEMENT IS REQUIRED.
5. PERFORMANCE DOES NOT MEET BASIC REQUIREMENTS OF THE JOB. IMMEDIATE ATTENTION AND ACTION IS REQUIRED.

A.T.
2/12/97

ACTUAL RESULTS AND COMMENTS	RATING				
	5	4	3	2	1
Rob takes the lead role in maintaining the consolidated financial model data base, logic and reports, with assistance from the section's other short range modelling analyst. He has made comparison tests of the mainframe and PC versions of CPM and is providing assistance to the department programmer to resolve the printing problems that exist in the PC version.				X	
Rob's extensive knowledge of the PC environment is highly regarded. He has downloaded the Revenue/Fuel model from the mainframe onto the PC, which will ultimately help Financial Planning's budget by reducing mainframe computer charges.				X	
Rob took the lead role in putting together the 1995 Profit Plan, with some assistance from other members of the section. He did an excellent job, considering the difficulties of forecasting the 1995 rate year without benefit of a final Opinion and Order. Rob also has the responsibility of preparing the monthly Outlook forecast; loading actuals, gathering and modelling revised forecast data, performing variance analysis, and communicating the results to senior management and the business units.					X
Rob's assistance in the modelling of the September gas compliance filing was helpful to the successful completion of that project.			X		
Currently, there are no plans to have Rob train on the new long range model. However, on his own initiative, Rob cross-trained on the quarterly excess earnings and the monthly RMC and LRPP deferrals.			X		

ACTUAL RESULTS AND COMMENTS	RATING				
	5	4	3	2	1
Rob is the department's lead person in maintaining the CFM data base, logic and reports, with some assistance from the section's other financial analyst. CFM is now fully downloaded into the PC environment and was used in the recent Compliance Filing effort.				X	
Rob's PC knowledge is a valuable asset to Financial Planning. However, the need for a department PC coordinator has diminished over time due to the establishment of new procedures such as AMPS. In the future, Rob will no longer be evaluated on this objective, although he will be expected to provide support to department personnel if it is necessary.			X		
Rob's duties include the preparation of the monthly Outlook Forecast. He works independently in gathering and modelling the revised forecast data and performing variance analyses. Rob is creative in his analysis of the data and is often consulted directly by the Company's Chief Financial Officer on such matters. He also did a good job of quickly revising the 1995 earnings plan in July to accurately reflect the impacts of the electric rate decision.				X	
Rob played a major role in the preparation of the electric and gas Compliance Filings in September. He made a good effort in dealing with major assumption changes in the week before the filing and he had good working relationships with other members of this project.				X	
Rob has assisted in performing analyses on miscellaneous topics when requested. His work on OPEB's related to FAS106 was very helpful as part of a project that is critical to the development of strategic plans for LILCO.			X		

ACTUAL RESULTS AND COMMENTS	RATING				
	5	4	3	2	1
Rob takes the lead role in maintaining the consolidated financial model data base, logic and reports, with assistance from the section's other short range modelling analyst. He did a good job downloading the CFM model into the PC environment, where it is now being used successfully for both regulatory filings and the Profit Plan.				X	
Rob plays a primary role in putting together the annual Profit Plan, a project that is of major importance to the Company. He pulls together all of the data necessary to run the Corporate Financial Model, with minor assistance from other members of the section. Rob's efforts were critical to a successful completion of the 1996 Profit Plan. Rob also prepares the monthly outlook forecast; loading actuals into CFM, gathering and modelling revised forecast data, performing variance analysis, and communicating the results to senior management and the business units. He did an excellent job of quickly revising the 1995 profit plan in July of 1995 to accurately reflect the impacts of the electric rate order.				X	
Rob played a major role in the preparation of the 1996 rate year electric and gas Compliance Filings. He was also primarily responsible for modelling the Updated Compliance Filing, a major component of the Company's Show Cause Order Response. Rob performed very well under strict time constraints on this project.				X	
Rob enjoys learning about areas outside the normal scope of his responsibilities, and has always been eager to assist in performing any analyses on other significant issues when requested. His work on OFEB's was very useful to a project that is critical to the development of strategic plans for LILCO.			X		

ACTUAL RESULTS AND COMMENTS	RATING				
	5	4	3	2	1
Rob has continued to maintain the consolidated financial model data base, logic and reports as expected. Rob shows a real talent for programming and often implements logic changes in order to modify the financial model to satisfy the requirements of senior management.			X		
Rob prepares the monthly outlook forecast for senior management. Rob does a good job of analyzing and explaining variances between actual and forecasted amounts and extrapolating their impact on year-end results.			X		
Rob played a lead role in the preparation of the September electric rate filing ordered by the Public Service Commission. He completed the project on a timely basis under the severe time constraints imposed by the PSC and dealt with internal delays effectively. Rob worked smoothly with the section's other Financial Analyst on this assignment. He has also provided technical assistance to accounting in the preparation of footnotes to the quarterly financial statements with respect to ratemaking issues.				X	
Rob put forward an outstanding effort in the modelling of the long-term Gas Cost of Service Study. This assignment required him to make extensive modifications to CFM in order to run for a five year period. He is currently in the process of updating the study to reflect the latest electric forecasts that will enable him to put together a long-term electric Cost of Service.				X	

L.T.
2/12/97

Award

ANNUAL CEU AWARD 1999 EMPLOYEE NOMINATION FORM

Employee Name & Number: Robert Smith
Title: Sr. Budget Analyst Strategic Business Group Department: Location: Financial Planning Budget - Hix
Brand (if applicable) Management Union Local

Corporate Goals Supported: (Check all that apply)

- COMPETITIVE PRICING EMPLOYEE EXCELLENCE
 CUSTOMER SATISFACTION GROWTH

Based on the four Corporate Goals, please describe how the employee supported and excelled beyond others in one or more of the goals selected.
Please list at least two examples of how the employee exceeded expectations, to support the nomination. (These explanations will be used by officers and department managers to congratulate recipients, therefore please be specific)

See Attached

Nominated by: _____
Department/Division: Tax Property Tax/Depreciation Studies
Team Leader Signature: _____ Date: _____

All Employee Nomination Forms are to be submitted to the Nomination Committee Team Leader NO LATER THAN JANUARY 31ST. Names of the team members and leaders are attached.

May 15, 2000

Ms'

From: Kenneth'

Re: Annual CEO Award, Robert Smith
Employee Number: 825198
Senior Budget Analyst, Band 2, Management

Corporate Goals Supported:

Employee Excellence

I believe that the above-mentioned employee with ten years of service be recognized for the 2000 Annual CEO Award. Mr. Smith has clearly demonstrated to several departments over recent years his diversified knowledge and at the same time, has shown us that he is a valuable team player to the Office of Finance.

Most recently, Mr. Smith provided the Property Tax area with significant assistance in addition to his ordinary job responsibilities in the Budget Department to train me in preparation and analysis of the Gas Book Depreciation Analysis. This project encompassed a five - week time frame. He has been the only individual in the Office of Finance with the knowledge to prepare this study over the past several years. Originally prepared by him while in Fixed Assets, (following the departure of a staff person) he has continued to prepare this study while in the Tax Department and now in the Budget Area as recent as last September.

This analysis is an in depth study of the book depreciation reserve for KeySpan Gas East Corporation which provides valuable insight for the Office of Finance in monitoring its book depreciation expense. Results from this study can determine if any subsequent entries need to be prepared for adjusting the Company's depreciation expense, if any changes in the current depreciation rates should be made or if any adjustments in the allowable rates be requested from the PSC.

Mr. Smith in this instance has clearly demonstrated that he is a team player by once again assisting and training others within the Office of Finance for the preparation of this major project. Had he not been available for this project my supervisor and I would have had an up hill battle in conquering the gas book depreciation analysis for 1999. Rob clearly laid out the procedure, was available for all my questions, had patience and devoted many hours in providing me with the training required to prepare this assignment in a timely matter.

In addition to training me on the depreciation project, Rob assisted the Property Tax Area in the preparation of the PSC and FERC pages pertaining to depreciation. This was the first year in which the Tax Department was responsible for these pages. In this instance also, Mr. Smith was more than willing to assist me.

To summarize, I believe that Mr. Robert Smith should be consider for a 2000 CEO award in consideration for his invaluable assistance to the Property Tax Area during February and March 2000. He demonstrated his diversified knowledge throughout the office of Finance and his willingness to be a team player

Sincerely,

Kenneth



KEYSPAN
ENERGY

*People's
Choice Award*

*The 1999 People's Choice Award
Presented to*

Robert H. Smith

*In Recognition for your Support of the
Corporate Goals
through Teamwork*

James Barron

December 2, 1999

MEMO TO:

SUBJECT: Nomination for People Choice Award

The Research & Development Department is in the process of developing a new computer application to manage its projects and report on the progress of its programs for LIPA and KeySpan Generation Services.

I hereby nominate Robert H. Smith, of Financial Planning, in supporting this effort. His efforts were well beyond what was expected when the original request was made and included the following:

- Providing R&D historical information on its project going back to 1990.
- Responding to this request in an expeditious manner using the software product, Monarch.

Should you have any questions, please call me at

Manager, Electric R&D

cc:

R. Smith ✓

MSA Deferred FIT

Subject: MSA Deferred FIT
Date: Tue, 16 Nov 1999 16:35:35 -0500
From: [REDACTED]
Organization: KeySpan Energy
To: Robert Smith <rsmith2@keyspanenergy.com>,
CC: [REDACTED]

Rob,

Once again you come through! File you sent me is exactly what we used and by eliminating other non-IT categories gives me data I need for IT MSA revenue requirement.

Thanks again for coming through - for Tax!!!

Smith, Robert H.

From: [REDACTED] Kenneth
Sent: Wednesday, December 23, 1998 9:24 AM
To: Smith, Robert H.
Subject: smitty.xls



smitty.xls

Smitty,

Here are the details of deferred taxes.

Thanks again for all your help.

Spirit of Service Award



The TEAM LILCO Spirit of Service Award
is Presented to

Robert Smith

Who Made a Valuable Contribution
to the Achievement of LILCO's Service Goals Through

*his cooperation, teamwork and assistance in helping to apply
a technological solution to a complex business initiative*

April 30, 1998

Date

Awarded By

TEAM

LILCO

Service First!

Spirit of Service Award



The TEAM LILCO Spirit of Service Award
is Presented to

Robert Smith

Who Made a Valuable Contribution
to the Achievement of LILCO's Service Goals Through

his outstanding effort in performing the analyses for the

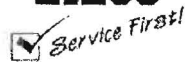
L.I. Incorporated Villages pursuing municipalitization

November 12, 1997

Date

Awarded By

TEAM
LILCO



Spirit of Service Award



Awarded To:

Name: ROBERT SMITH
Job Title: SR. ECONOMIC ANALYST Department: FINANCIAL PLANNING
Location: HICKSVILLE Dept. Mgr's Name: _____

In Recognition Of:

HIS CONTRIBUTION IN FINANCIAL REPORTING WHICH ASSISTED
RFR WITH THE PREPARATION OF THE EB CAP STUDY. MR SMITH
DEMONSTRATED TEAM SPIRIT WHICH IN COMPLETING REGULATORY AND
FINANCIAL REPORTING'S REQUEST IN A TIMELY MANNER. HIS
ACTIONS SHOULD BE COMMENDED.

Awarded By:

Name: _____ Employee No.: _____
Department: Consolidation Location: Hick Phone No.: _____

Signature _____

Date

5/30/96

DISTRIBUTION:

TEAM

T.I.C.O.

WHEREFORE, Robert H. Smith respectfully requests that Florida Power and Light answer Staff's Data request No. 1, Question 3 and respectfully requests the Commission and/or Florida Power and Light Company to allow Robert H. Smith to inspect and examine the answer to Staff's Data request No. 1, Question 3, which I respectfully requested in my motion email dated November 26th, 2010 based upon Federal /State rights to protect my legal interest and to provide full transparency to ensure all pertinent questions have been asked before any ruling is made with the Stipulation and Settlement agreement.

Respectively submitted electronically (email), Friday November 26th, 2010 to the listed parties above and electronically filed to filings@psc.state.fl.us on Monday November 29th, 2010 as outlined per Florida Public Service Commission Electronic Filing Requirements.

/S Robert H. Smith

11340 Heron Bay Blvd. #2523
Coral Springs, Florida 33076-1629

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