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100410-EI

From: Butler, John [John.Butler@fpl.com]
Sent: Monday, December 06, 2010 4:21 PM
To: Filings@psc.state.fl.us
Subject: Electronic Filing / Docket 100410-EI / FPL Response to Robert Smith's M/for FPL to Answer Staff's Data Request
Attachments: 12.6.10. FPL Response to Smith Question 3 Motion.pdf

Electronic Filing

a. Person responsible for this electronic filing:

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b. Docket No. 100410-EI
 In re: Review of Florida Power & Light Company earnings

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

d. There are a total of 7 pages in the attached document (4-page response and 3-page certificate of service).

e. The document attached for electronic filing is Florida Power & Light Company's Florida Power & Light Company's Response to Robert H. Smith's Motion for Florida Power & Light Company to Answer Question 3 to Staff's Data Request No. 1 in Order to Inspect and Examine the Answer to Question 3

Thank you for your attention and cooperation to this request.

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12/6/2010

DOCUMENT NUMBER - DATE
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 FPSC-COMMISSION CLERK

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Review of Florida Power & Light Company's earnings)

Docket No. 100410-EI

In re: Nuclear cost recovery clause)

Docket No. 100009-EI

In re: Petition for rate increase by Florida Power & Light Company)

Docket No: 080677-EI
Filed: December 6, 2010

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

Pursuant to Rule 28-106.204, Florida Administrative Code ("F.A.C."), Florida Power & Light Company ("FPL") hereby files this response to Robert H. Smith's Motion for Florida Power & Light Company to Answer Question 3 to Staff's Data Request No. 1 in Order to Inspect and Examine the Answer to Question 3, filed November 26, 2010 (the "Smith Motion").

1. As an initial matter, FPL notes that Mr. Smith is not a party to any of the above dockets and thus is not entitled to file pleadings such as the Smith Motion. Moreover, the Smith Motion relates to FPL's response to a November 16, 2010 data request that Staff made to FPL in Docket No. 100410-EI (the "Staff Data Request"). The Staff Data Request thus has no connection to Docket Nos. 100009-EI or 080677-EI, yet the Smith Motion cites to them in its subject line.

2. Though the Smith Motion is far from clear, there appear to be essentially two elements to the relief it seeks. First, it appears to be asking the Commission to compel FPL to file restated earnings surveillance reports ("ESRs") pursuant to Question 3 of the Staff Data Request. Second, the Smith Motion raises a series of five questions that allegedly relate to FPL's response to Question 3, which apparently Mr. Smith either is posing to FPL directly or is

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suggesting that Staff should pose to FPL. These two elements of the Smith Motion are addressed below.

FPL's Response to Question 3

3. The Smith Motion appears to be demanding that FPL provide restated hypothetical monthly ESRs in response to Question 3. As noted above, Mr. Smith is not a party to Docket No. 100410-EI, or the other two dockets he cites. FPL provided information in response to the Staff Data Request. FPL respectfully suggests that Staff will follow up on FPL's response if Staff feels that it needs any further information.

4. FPL has not withheld any available information in its response to Question 3. To the contrary, FPL worked diligently to provide Staff with a high-level, close approximation of the impact on the ESRs for March 2010 through September 2010 of reflecting the rate case order's level of amortization for depreciation reserve surplus credits. That approximation shows the rate base, net operating income, overall rate of return, non-equity cost rates, the net return to equity holders, the equity ratio and, ultimately, the return on equity, both on an FPSC-adjusted and pro forma (weather-normalized) basis. FPL believes that the information it provided in response to Question 3 sufficiently illustrates what FPL's earnings would have been if the depreciation reserve surplus credits had been amortized as contemplated in the rate case order.

5. The Smith Motion makes several references to public records laws and other laws that provide access to information of utilities and publicly traded companies. This suggests that Mr. Smith may believe FPL has withheld information from the response to Question 3 on the basis of confidentiality. That is not the case. FPL has withheld nothing in its response to Question 3, or the Staff Data Request generally, because of confidentiality concerns. Moreover, Mr. Smith has full access on the Commission website for Docket No. 100410-EI to all of the

information that FPL provided to Staff in its response. None of that information is subject to confidentiality restrictions.

Mr. Smith's Questions to FPL

6. The Smith Motion poses five numbered questions that apparently are an effort by Mr. Smith to follow up on FPL's response to Staff's Question 3. As discussed above, Mr. Smith is not a party to any of the dockets he cites, and he is not entitled to propound discovery on FPL. Nonetheless, FPL offers the following observations concerning Mr. Smith's questions.

8. Mr. Smith's Questions 1 and 2 ask about what types of information FPL filed in its rate case. Information relevant to those questions is readily available to him from the Commission's website. Specifically, Mr. Smith can access FPL's petition, MFRs and supporting testimony via links in the document filing index for Docket No. 080677-EI on the Commission's website. Those documents provide extensive detail on FPL's rate case filing.

9. Mr. Smith's Questions 3 through 5 relate to limitations on FPL's "forecast models." Mr. Smith apparently believes that forecast models would be used to generate the monthly ESRs that were the subject of Staff's Question 3. That is not the case, and thus Mr. Smith's questions about forecast models are simply not relevant to Question 3. The monthly ESRs are prepared on the basis of historical, actual data from FPL's accounting records, using FPL's Regulatory Interface System ("RIS"), not on the basis of forecast models. The affidavit of Kim Ousdahl that FPL included as Attachment 1 to its response to the Staff Data Request discusses the RIS and the challenges posed in trying to use it to generate alternative, hypothetical ESRs based on inputs that are different from what is recorded in FPL's accounting records. Ms. Ousdahl's affidavit is readily available to Mr. Smith via the Commission's website.

WHEREFORE, FPL respectfully requests that the Smith Motion be denied as unauthorized and unnecessary. As discussed above, Mr. Smith has ready access to information that addresses the matters raised in the Smith Motion.

Respectfully submitted,

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CERTIFICATE OF SERVICE
Dockets 100410-EI, 100009-EI and 080677-EI

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished electronically this 6th day of December, 2010, to the following:

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