

Marguerite McLean

100009-EI

From: Butler, John [John.Butler@fpl.com]
Sent: Monday, December 06, 2010 4:22 PM
To: Filings@psc.state.fl.us
Subject: Electronic Filing / Docket 100009-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:

John Butler, Esq.
 700 Universe Boulevard
 Juno Beach, FL 33408
 561-304-5639
john.butler@fpl.com

b. Docket No. 100009-EI
 In re: Nuclear cost recovery clause

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.

John Butler, Esq.
 700 Universe Boulevard
 Juno Beach, FL 33408
 561-304-5639
john.butler@fpl.com

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12/6/2010

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 FPSC-COMMISSION ON FPL

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,

R. Wade Litchfield, Vice President
and General Counsel
John T. Butler, Managing Attorney
Attorneys for Florida Power & Light Company
700 Universe Boulevard
Juno Beach, Florida 33408-0420
Telephone: (561) 691-7101
Facsimile: (561) 691-7135

By: /s/ John T. Butler
John T. Butler
Florida Bar No. 283479

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:

Lisa Bennett, Esquire
Anna Williams, Esquire
Keino Young, Esq.
Martha Brown, Esquire
Jean Hartman, Esquire
Office of the General Counsel
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-1400
LBENNETT@PSC.STATE.FL.US
ANWILLIA@PSC.STATE.FL.US
mbrown@psc.state.fl.us
JHARTMAN@PSC.STATE.FL.US
KYOUNG@PSC.STATE.FL.US

J.R. Kelly, Esquire
Joseph A. McGlothlin, Esquire
Charles Rehwinkel, Esq.
Office of Public Counsel
c/o The Florida Legislature
111 West Madison Street, Room 812
Tallahassee, FL 32399-1400
Attorneys for the Citizens of the State
of Florida
Kelly.jr@leg.state.fl.us
mcglothlin.joseph@leg.state.fl.us
Rehwinkel.Charles@leg.state.fl.us

Kenneth L. Wiseman, Esquire
Mark F. Sundback, Esquire
Jennifer L. Spina, Esquire
Lisa M. Purdy, Esquire
Lino Mendiola, Esquire
Meghan Griffiths, Esquire
Andrews Kurth LLP
1350 I Street, NW, Suite 1100
Washington, DC 20005
Attorneys for South Florida Hospital and
Healthcare Association ("SFHHA")
kwiseman@andrewskurth.com
msundback@andrewskurth.com

Robert A. Sugarman, Esquire
D. Marcus Braswell, Jr., Esquire
c/o Sugarman & Susskind, P.A.
100 Miracle Mile, Suite 300
Coral Gables, FL 33134
Attorneys for I.B.E.W. System Council U-4
sugarman@sugarmansusskind.com
mbraswell@sugarmansusskind.com

Robert Scheffel Wright, Esquire
John T. LaVia, III, Esquire
Young van Assenderp, P.A.
225 South Adams Street, Suite 200
Tallahassee, Florida 32301
Attorneys for the Florida Retail Federation
swright@yvvlaw.net
jlavia@yvvlaw.net

Jon C. Moyle, Jr., Esquire
Vicki Gordon Kaufman, Esquire
Keefe Anchors Gordon & Moyle, PA
118 North Gadsden Street
Tallahassee, FL 32301
Attorneys for The Florida Industrial Power
Users Group (FIPUG)
jmoyle@kagmlaw.com
vkaufman@kagmlaw.com

ispina@andrewskurth.com
lisapurdy@andrewskurth.com
linomendiola@andrewskurth.com
meghangriffiths@andrewskurth.com

John W. McWhirter, Jr., Esquire
c/o McWhirter Law Firm
P.O. Box 3350
Tampa, FL 33601
Attorneys for The Florida Industrial Power
Users Group (FIPUG)
jmcwhirter@mac-law.com

Stephen Stewart
P.O. Box 12878
Tallahassee, FL 32317
Qualified Representative for Richard Ungar
tips@fpscreports.com

Stephanie Alexander, Esquire
Tripp Scott, P.A.
200 West College Avenue, Suite 216
Tallahassee, FL 32301
Attorneys for Association For Fairness In
Rate Making (AFFIRM)
sda@trippscott.com

Shayla L. McNeill, Capt, USAF
Utility Litigation & Negotiation Team
Staff Attorney
AFLOA/JACL-ULT
AFCESA
139 Barnes Drive, Suite 1
Tyndall AFB, FL 32403-5317
Attorneys for the Federal Executive Agencies
shayla.mcneill@tyndall.af.mil

Margaret-Ray Kemper, Esq.
Ruden, McClosky, Smith, Schuster &
Russell, P.A.
215 South Monroe Street, Suite 815
Tallahassee, FL 32301
Attorney for Associated Industries of Florida
margaret-ray.kemper@ruden.com

Brian P. Armstrong, Esquire
Nabors, Giblin & Nickerson, P.A.
1500 Mahan Drive, Suite 200
Tallahassee, FL 32308
Attorneys for the City of South Daytona,
Florida
barmstrong@ngnlaw.com

Cecilia Bradley
Senior Assistant Attorney General
Office of the Attorney General
The Capitol - PL01
Tallahassee, FL 32399-1050
cecilia.bradley@myfloridalegal.com

Tamela Ivey Perdue, Esquire
Associated Industries of Florida
516 North Adams Street
Tallahassee, FL 32301
tperdue@aif.com

Barry Richard, Esq.
Greenberg Traurig, P.A.
101 East College Avenue
Tallahassee, FL 32301
Attorneys for Florida Power & Light Company
and FPL Employee Intervenors
richardb@gtlaw.com

Robert H. Smith*
11340 Heron Bay Blvd #2523
Coral Springs, FL 33076-1629
rpjrb@yahoo.com

J. Michael Walls, Esq.
Blaise Huhta, Esq.
Carlton Fields Law Firm
P.O. Box 3239
Tampa, Florida 33601-3239
mwalls@carltonfields.com
bhuhta@carltonfields.com
Attorneys for Progress

R. Alexander Glenn, Esq.
John T. Burnett, Esq.
Progress Energy Service Company, LLC
P.O. Box 14042
St. Petersburg, Florida 33733-4042
john.burnett@pgnmail.com
alex.glenn@pgnmail.com
Attorneys for Progress

Randy B. Miller
White Springs Agricultural Chemicals, Inc.
Post Office Box 300
15843 Southeast 78th Street
White Springs, Florida 32096
RMiller@pcsphosphate.com

Gary A. Davis, Esq.
James S. Whitlock, Esq.
Gary A. Davis & Associates
P.O. Box 649
Hot Springs, NC 28743
Gadavis@enviroattorney.com
jwhitlock@enviroattorney.com
Attorneys for SACE

*Not a Party

Dianne M. Triplett, Esq.
Progress Energy Florida
229 1st Avenue N PEF-152
St. Petersburg, Florida 33701
dianne.triplett@pgnmail.com
Attorney for Progress

James W. Brew, Esq.
F. Alvin Taylor, Esq.
Brickfield, Burchette, Ritts & Stone, P.C.
1025 Thomas Jefferson Street, NW
Eighth Floor, West Tower
Washington, DC 20007-5201
jbrew@bbrslaw.com
ataylor@bbrslaw.com
Attorneys for PCS Phosphate

Mr. Paul Lewis, Jr.
106 East College Ave., Suite 800
Tallahassee, Florida 32301-7740
paul.lewisjr@pgnmail.com

E. Leon Jacobs, Jr.
Williams & Jacobs, LLC
1720 s. Gadsden Street MS 14, Suite 20
Tallahassee, FL 32301
Ljacobs50@comcast.net
Attorneys for SACE

By: /s/John T. Butler
John T. Butler
Florida Bar No. 283479