

Diamond Williams

From: ROBERTS.BRENDA [ROBERTS.BRENDA@leg.state.fl.us]
Sent: Monday, June 20, 2011 3:25 PM
To: Filings@psc.state.fl.us
Cc: Anna Williams; Blaise N. Huhta; Bryan Anderson; James M. Walls; James W. Brew; Jessica Cano (Jessica.Cano@fpl.com); John Burnett; John McWhirter; John Moyle; Keino Young; Ken Hoffman; Matthew Feil (mfeil@gunster.com); Mitchell S. Ross; Paul Lewis; Randy B. Miller; Vickie Gordon Kaufman (vkaufman@kagmlaw.com); Wade Litchfield; White, Karen
Subject: E-filing (Dkt.No. 110009-EI)
Attachments: 110009.response.oral argument.sversion.doc

Electronic Filing

a. Person responsible for this electronic filing:

Joseph A. McGlothlin, Associate Public Counsel
Office of Public Counsel
c/o The Florida Legislature
111 West Madison Street, Room 812
Tallahassee, FL 32399-1400
(850) 488-9330
mcglothlin.joseph@leg.state.fl.us

b. Docket No. 110009-EI

In re: Nuclear Cost Recovery Clause.

c. Document being filed on behalf of Office of Public Counsel

d. There are a total of 3 pages.

e. The document attached for electronic filing is OPC's Response To Rajiv Kundalkar's Request for Oral Argument on Motion to Stay Order No. PSC-11-0426-PCO-EI.

(See attached file: 110009.response.oral argument.sversion.doc)

Thank you for your attention and cooperation to this request.

Brenda S. Roberts
Office of Public Counsel
Telephone: (850) 488-9330
Fax: (850) 488-4491

DOCUMENT NUMBER-DATE

04225 JUN 20 =

FPSC-COMMISSION CLERK

6/20/2011

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Nuclear Cost Recovery
Clause.

DOCKET NOS: 110009-EI
FILED: June 20, 2011

**OPC'S RESPONSE TO RAJIV KUNDALKAR'S REQUEST FOR ORAL ARGUMENT
ON MOTION TO STAY ORDER NO. PSC-11-0246-PCO-EI**

The Citizens of the State of Florida, through the Office of Public Counsel, hereby respond in opposition to Rajiv Kundalkar's Request for Oral Argument on his Motion to Stay Order No. PSC-11-0246-PCO-EI ("the Order"), and state:

1. The Prehearing Officer considered Mr. Kundalkar's Motion to Quash Subpoena, including written responses and oral argument by the parties, prior to issuing the Order. In the Order, the Prehearing Officer analyzed Mr. Kundalkar's contentions carefully and fully. When reviewing Mr. Kundalkar's request for oral argument on his Motion to Stay, the Prehearing Officer will observe that much of the Motion to Stay is devoted to repeating and rehashing the arguments that the Prehearing Officer analyzed fully in the Order. Oral argument is not needed on these contentions because they have already been fully developed--and ruled upon.

2. The Request claims the Motion to Stay presents the Commission "with significant and unique questions." However, the questions raised by the Motion to Stay are those delineated in Commission Rule 25-22.061(2), F.A.C. The standards of the movant's likelihood of success on appeal, whether the movant will experience irreparable harm within the meaning of the rule, and whether granting the stay will impose harm are the same questions that must be addressed with any application for a stay. They are not novel; to the contrary, they are the subjects of a substantial body of law. The application of those criteria to the situation before the Prehearing Officer has been developed fully in the pleadings.

DOCUMENT NUMBER-DATE

04225 JUN 20 =

FPSC-COMMISSION CLERK

WHEREFORE, OPC submits the Prehearing Officer should deny the pending Request for Oral Argument.

J. R. Kelly
Public Counsel

s/ Joseph A. McGlothlin
Joseph A. McGlothlin
Associate Public Counsel

Office of Public Counsel
c/o The Florida Legislature
111 West Madison Street, Room 812
Tallahassee, FL 32399-1400
(850) 488-9330

Attorney for the Citizens
of the State of Florida

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and foregoing OPC's Response to Rajiv Kundalkar's Request for Oral Argument On Motion to Stay Order No. PSC-11-0246-PCO-EI has been furnished by electronic mail and/or U.S. Mail on this 20th day of June, 2011, to the following:

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

John McWhirter, Jr.
c/o McWhirter Law Firm
Florida Industrial Power Users Group
PO Box 3350
Tampa, FL 33601

Keino Young/Anna Williams
2540 Shumard Oak Blvd.
Tallahassee, FL 32399-0850

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

Vicki G. Kaufman/Jon C. Moyle, Jr.
Florida Industrial Power Users Group
118 North Gadsden Street
Tallahassee, FL 32301

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

Matthew R. Bernier
Carlton Fields Law Firm
215 South Monroe St., Suite 500
Tallahassee, FL 32301-1866

J. Michael Walls/Blaise N. Huhta
Carlton Fields Law Firm
P.O. Box 3239
Tampa, FL 33601-3239

Randy B. Miller
White Springs Agriculture
Chemicals, Inc
P.O. Box 300
White Springs, FL 32096

Karen S. White, Staff Attorney
c/o AFCESA-ULFSC
139 Barnes Drive, Suite 1
Tyndall AFB, FL 32043-5319

Bryan J. Anderson/Jessica Cano
Florida Power and Light Company
700 Universe Blvd
Juno Beach, FL 33418

James W. Brew/F. Alvin Taylor
1025 Thomas Jefferson St. NW, 8th
Flo, West Tower
Washington, DC 20007

Ken Hoffman
Florida Power & Light Company
215 S. Monroe St., Suite 810
Tallahassee, FL 32301

Matthew Feil
Gunster Law Firm
215 South Monroe, Suite 601
Tallahassee, FL 32301

Rajiv S. Kundalkar
11591 Buckhaven Ln.
West Palm Beach, FL 33412-1607

s/ Joseph A. McGlothlin
Joseph A. McGlothlin
Associate Public Counsel