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Subject: Electronic Filing / Dkt 110309 - EI / Florida Power & Light's Opposition To Florida Industrial Power Users Group's Motion For Leave To File Response
Attachments: FLORIDA POWER & LIGHT COMPANY'S OPPOSITION TO FLORIDA INDUSTRIAL POWER USERS GROUP'S MOTION FOR LEAVE TO FILE RESPONSE.pdf

Electronic Filing

a. Person responsible for this electronic filing:

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b. Docket No. 110309 - EI
In RE: Florida Power & Light Company's Petition To Determine Need for Modernization of Port Everglades Plant

c. The Document is being filed on behalf of Florida Power & Light Company.

d. There are a total of 3 pages

e. The document attached for electronic filing is Florida Power & Light Company's Opposition To Florida Industrial Power Users Group's Motion For Leave To File Response

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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Florida Power & Light Company's
Petition To Determine Need for Modernization
of Port Everglades Plant

Docket No. 110309-EI

Dated: February 16, 2012

**FLORIDA POWER & LIGHT COMPANY'S OPPOSITION TO FLORIDA
INDUSTRIAL POWER USERS GROUP'S MOTION FOR LEAVE TO FILE RESPONSE**

Florida Power & Light Company ("FPL") hereby files its opposition to the Florida Industrial Power Users Group's ("FIPUG's") Motion For Leave To File Response. In support of this Opposition to the Motion For Leave To File Response, FPL further states:

On February 14, 2012, FIPUG belatedly filed a Petition To Intervene in this proceeding despite at least nine months' notice of FPL's intent to modernize Port Everglades. On February 15, 2012, FPL filed its opposition to FIPUG's Petition To Intervene, explaining, *inter alia*, that FIPUG's attempted intervention was untimely under the applicable rules.

Rule 28-106.204(1), F.A.C., provides that "[a]ll requests for relief shall be made by motion." This rule also provides that "parties may, within seven days of service of a written motion, file a response in opposition." FPL's February 15 opposition to FIPUG's Petition To Intervene was filed as a "response in opposition" pursuant to Rule 28-106.204.

Rule 28-106.204 does not contemplate the filing of a reply to a response in opposition, yet that is what FIPUG is now seeking to do. FIPUG's Motion For Leave To File Response presents no extraordinary facts or circumstances that would justify its filing a reply.¹ And the reply FIPUG seeks to file consists of nothing beyond an insupportable interpretation of the rules

¹ FIPUG refers to the pleading it seeks leave to file as a "response." Because it would be addressing FPL's response in opposition, however, the conventional terminology for FIPUG's pleading would be a "reply," and that is how FPL refers to it.

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on timely filing that it has violated.² In short, FIPUG sets forth no valid basis for replying, and its Motion For Leave To File Response should be denied.

WHEREFORE, FPL respectfully requests that the Commission deny FIPUG's Motion For Leave To File Response.

Respectfully submitted this 16th day of February, 2012.

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By: /s/ John Butler

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² FIPUG argues that Rule 28-106.103, governing computation of time, is inapplicable to the Commission's Rule 25-22.039, governing intervention. But Rule 28-106.103 is a uniform rule of administrative procedure that applies generally to Commission proceedings unless the Commission has adopted a specific exception. See Rule 28-106.101. There is no such Commission exception regarding the computation of time, so Rule 28-106.103 governs. See Section 120.54(5)(a)(1), *Florida Statutes*; *Crawford v. Dept. of Children and Families*, 785 So. 2d 505, 507 (Fla. 3rd DCA 2000); Order No. PSC-99-0413-NOR-PU, Docket No. 980500-PU, dated Feb. 26, 1999 (repealing the former Commission rule on computation of time).

CERTIFICATE OF SERVICE
DOCKET NO. 110309-EI

I HEREBY CERTIFY that a true and correct copy of the foregoing FPL's Opposition to FIPUG's Motion for Leave to File Response was served via electronic delivery this 16th day of February, 2012 to the following:

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