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**Sent:** Tuesday, July 24, 2012 12:56 PM  
**To:** Filings@psc.state.fl.us  
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**Subject:** Electronic Filing - Docket No. 120015-EI - OPC's Objections to FPL's 5th Rogs  
**Attachments:** Citizens' Objections to FPL 5th Rog's Nos. 74-84.pdf

Electronic Filing

a. Person responsible for this electronic filing:

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b. Docket No. 120015-EI

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

c. Documents being filed on behalf of the Office of Public Counsel

d. There are a total of 7 pages.

e. The document attached for electronic filing is Citizens' Objections to FPL's 5th Set of Interrogatories (Nos. 74-84)

Thank you for your attention and cooperation to this request.

Phyllis W. Philip-Guide  
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DOCUMENT NUMBER-DATE  
04956 JUL 24 12  
FPSC-COMMISSION CLERK

7/24/2012

**BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

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

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Docket No: 120015-EI

Filed: July 24, 2012

**CITIZENS' OBJECTIONS TO FLORIDA POWER AND LIGHT'S FIFTH SET OF  
INTERROGATORIES (NOS. 74-84)**

Office of Public Counsel, ("Citizens"), by the requirements set forth in the Commission Order No. PSC-12-0143-PCO-EI, Rule 28-106-206, Florida Administrative Code, and Rule 1.340, Florida Rules of Civil Procedure, submit the following response to the Fifth Set of Interrogatories (Nos. 74-84) propounded by Florida Power and Light (FPL) on July 9, 2012.

**GENERAL OBJECTIONS**

With respect to the "Definitions" and "Instructions" in the requests, Citizens object to any definitions or instructions that are inconsistent with Citizens' discovery obligations under applicable rules. If some question arises as to Citizens' discovery obligations, Citizens will comply with applicable rules and not with any of the definitions or instructions that are inconsistent with those rules.

Citizens object to each and every request to the extent it is vague, ambiguous, overly broad, imprecise, or utilizes terms that are subject to multiple interpretations but are not properly defined or explained for purposes of such discovery requests. Any responses provided by Citizens are provided subject to, and without waiver of, the foregoing objection.

Citizens object to the extent any discovery request is unduly burdensome. Citizens further object to any requests that would require Citizens and/or its consultants to perform a new study or analysis.

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Citizens generally object to any request that calls for data or information protected by the attorney-client privilege, the work product privilege, the accountant-client privilege, the trade secret privilege, or any other applicable privilege or protection afforded by law.

Citizens reserve the right to supplement any of its responses if Citizens cannot locate the answers immediately due to their magnitude and the work required to aggregate them, or if Citizens later discover additional responsive information in the course of this proceeding. By making these general objections at this time, Citizens do not waive or relinquish its right to assert additional general and specific objections to FPL's discovery.

By making these responses herein, Citizens do not concede that any request is relevant to this action or is reasonably calculated to lead to the discovery of admissible evidence. Citizens expressly reserve the right to object to further discovery into the subject matter of any of these requests, to the introduction of evidence of any response or portion thereof, and to supplement its responses should further investigation disclose responsive information.

Citizens object to providing information to the extent that such information is already in the public record before the Florida Public Service Commission and available to FPL through normal procedures.

In responding to these Requests, Citizens do not waive the foregoing objections, or the specific objections that are set forth in the responses to particular requests.

#### **ADDITIONAL SPECIFIC OBJECTIONS**

In addition to the general objections which apply to every interrogatory, Citizens provide the following objections to specific interrogatories:

74. Regarding OPC Witness Lawton's testimony at page 6, lines 1-10, please list any and all research, documents and analyses that support the statement that management performance has little to do with cost structure.

**RESPONSE: Citizens specifically object to this request based on the grounds that it is imprecise and a mischaracterization of the witness' testimony. Citizens reserve the right to assert any additional objections based on confidentiality and/or privilege that come to Citizens' attention during the preparation of the discovery.**

75. Regarding OPC Witness Lawton's testimony at page 7, lines 6-9, please cite the legal and/or regulatory support for the statement that regulated utilities, "have a duty to provide superior performance . . . ."

**RESPONSE: Citizens have no specific objection at this time. However, Citizens reserve the right to assert any additional objections based on confidentiality and/or privilege that come to Citizens' attention during the preparation of the discovery.**

76. Regarding OPC Witness Lawton's testimony at page 7, lines 11-12, please cite the legal and/or regulatory support for the statement that "efforts to keep rates as low as possible are part and parcel of FPL's obligation to serve."

**RESPONSE: Citizens have no specific objection at this time. However, Citizens reserve the right to assert any additional objections based on confidentiality and/or privilege that come to Citizens' attention during the preparation of the discovery.**

77. Regarding OPC Witness Lawton's testimony at page 9, please identify any and all studies, analyses and documentation supporting his statement that "[c]urrent bonus depreciation impacts on cash flow will cause the rating agencies to focus more on earnings such as earnings before interest, taxes, depreciation and amortization ("EBITDA") metrics, rather than pure cash flow measures which are temporarily influenced by current tax law impacts." As part of your answer,

- a. Identify all documents, analyses and studies Witness Lawton relied upon that relate the temporary nature of the current tax laws; and

**RESPONSE: Citizens specifically object to this request based on the grounds that it is a mischaracterization of the witness' testimony. Citizens reserve the right to assert any additional objections based on confidentiality and/or privilege that come to Citizens' attention during the preparation of the discovery.**

- b. Identify all studies, documents and analyses demonstrating that rating agencies are or will be more focused on EBITDA and not pure cash flow

**RESPONSE:** Citizens have no specific objection at this time. However, Citizens reserve the right to assert any additional objections based on confidentiality and/or privilege that come to Citizens' attention during the preparation of the discovery.

78. Regarding OPC Witness Lawton's testimony at page 9, please define "pure cash flow."

**RESPONSE:** Citizens have no specific objection at this time. However, Citizens reserve the right to assert any additional objections based on confidentiality and/or privilege that come to Citizens' attention during the preparation of the discovery.

79. Regarding OPC Witness Lawton's testimony at page 9, please explain the difference between pure cash flow and EBITDA.

**RESPONSE:** Citizens have no specific objection at this time. However, Citizens reserve the right to assert any additional objections based on confidentiality and/or privilege that come to Citizens' attention during the preparation of the discovery.

80. Regarding OPC Witness Lawton's testimony at page 9, please explain why rating agencies would care less about pure cash flow than EBITDA.

**RESPONSE:** Citizens have no specific objection at this time. However, Citizens reserve the right to assert any additional objections based on confidentiality and/or privilege that come to Citizens' attention during the preparation of the discovery.

81. Regarding OPC Witness Lawton's testimony, please identify any and all studies, analyses and documents that support the witness's position that the witness proposed 50/50 debt to capital structure maintains a low leverage profile.

**RESPONSE:** Citizens specifically object to this request based on the grounds that it is imprecise and a mischaracterization of the witness' testimony. Citizens reserve the right to assert any additional objections based on confidentiality and/or privilege that come to Citizens' attention during the preparation of the discovery.

82. Regarding OPC Witness Lawton's testimony, please identify any and all studies, analysis and documents that indicate that a 9.0% ROE is regarded as a strong financial metric for any regulated utility?

**RESPONSE: Citizens specifically object to this request based on the grounds that it is imprecise and a mischaracterization of the witness' testimony. Citizens reserve the right to assert any additional objections based on confidentiality and/or privilege that come to Citizens' attention during the preparation of the discovery.**

83. Regarding OPC Witness Lawton's testimony at pages 14 and 19, please indicate whether the witness used "EBITDA" or "pure cash flow" in the cash flow metric calculations?

**RESPONSE: Citizens have no specific objection at this time. However, Citizens reserve the right to assert any additional objections based on confidentiality and/or privilege that come to Citizens' attention during the preparation of the discovery.**

84. Regarding OPC Witness Lawton's testimony at pages 14 and 19, please explain the difference between CFO, FFO and pure cash flow. As part of your answer, please state which is the most important to rating agencies?

**RESPONSE: Citizens have no specific objection at this time. However, Citizens reserve the right to assert any additional objections based on confidentiality and/or privilege that come to Citizens' attention during the preparation of the discovery.**



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**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing was furnished by e-mail and U.S. Mail this 24th day of July, 2012 to:

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A handwritten signature in black ink, featuring a large, stylized loop at the beginning and a long, horizontal tail extending to the right.

Patricia A. Christensen  
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