

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Fuel and Purchased Power)
Cost Recovery Clause with)
Generating Performance Incentive)
Factor)
_____)

DOCKET NO. 140001-EI
FILED: August 22, 2014

**OPC'S REQUEST FOR ORAL ARGUMENT
ON MOTION TO DISMISS FPL'S JUNE 25, 2014 PETITION
FOR LACK OF SUBJECT MATTER JURISDICTION**

Pursuant to Rule 25-22.0022, Florida Administrative Code, the Citizens of the State of Florida, through the Office of Public Counsel ("Citizens" or "OPC"), respectfully request the Commission to provide OPC an opportunity to address the full Commission in oral argument on OPC's Motion to Dismiss FPL's June 25, 2014 Petition For Lack of Subject Matter Jurisdiction, and state:

1. On June 25, 2014, FPL submitted a petition in which it proposes to include investments in a joint venture with an unregulated entity for the exploration, drilling, and hydraulic fracturing of shale to produce natural gas in Oklahoma for inclusion in its fuel cost recovery clause, including a return on those investments. FPL also asks the Commission to approve proposed guidelines under which FPL would be permitted to undertake additional such investments in the natural gas exploration and production industry, and to include them in the fuel cost recovery clause in the future without first seeking additional approval from the Commission.

2. Concurrently with this Request, OPC is filing a Motion to Dismiss FPL's June 25, 2014 Petition For Lack of Subject Matter Jurisdiction ("Motion to Dismiss"). OPC's Motion to Dismiss is substantive and, if granted, would be dispositive of FPL's petition.¹

3. FPL's petition and OPC's Motion to Dismiss call upon the Commission to resolve significant, fundamental disagreements regarding the purpose of the fuel cost recovery clause, the import of past precedents, the nature and extent of Florida's regulation of public utilities under Chapter 366, Florida Statutes, and the jurisdictional boundaries of the Commission's powers and ratemaking authority. The legal issue presented in OPC's Motion to Dismiss is a threshold consideration to the review of FPL's request. OPC believes and submits that oral argument on OPC's Motion to Dismiss would be beneficial to the Commission as it considers the parties' competing contentions. OPC requests the Commission to schedule oral argument on the Motion. OPC suggests that allowing 15 minutes per side would be appropriate under the circumstances.

¹ A motion to dismiss is a "dispositive motion," and as such is among the matters for which the Commission will entertain oral argument during an agenda conference. Rule 25-22.0022(7), F.A.C. Based on the procedural schedule in this matter, OPC suggests in its Motion to Dismiss For Lack of Subject Matter Jurisdiction that the Commission take up the Motion during the agenda conference scheduled for October 2, 2014.

WHEREFORE, OPC respectfully requests the opportunity to present oral argument to the full Commission on OPC's Motion to Dismiss FPL's June 25, 2014 Petition For Lack of Subject Matter Jurisdiction.

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing **OPC'S REQUEST FOR ORAL ARGUMENT ON MOTION TO DISMISS FPL'S JUNE 25, 2014 PETITION FOR LACK OF SUBJECT MATTER JURISDICTION** has been furnished by electronic mail and/or U.S. Mail on this 22nd. day of August, 2014, to the following:

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