

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Florida Power & Light Company's
Petition for Approval of Arrangement to
Mitigate Impact of Unfavorable Cedar Bay
Power Purchase Obligation

DOCKET NO.: 150075-EI

FILED: August 13, 2015

**FLORIDA INDUSTRIAL POWER USERS GROUP'S
MOTION TO STRIKE UNAUTHORIZED FILING**

The Florida Industrial Power Users Group ("FIPUG"), by and through its undersigned counsel, submits this motion to strike the unauthorized filing of Cedar Bay Generating Company's Responses to Objections of Florida Industrial Power User's Group to Cedar Bay's [Seventh, Tenth, and Thirteenth] Requests for Confidential Classification, filed by Cedar Bay on August 12, 2015, and in support thereof states as follows:

1. Early in this proceeding, FIPUG identified documents that it intended to use and enter into evidence at the July 28, 2015 final hearing, including documents later marked as FIPUG Exhibits 64, 65, 66, and 67 ("FIPUG Exhibits").

2. On June 24, 2015, pursuant to Rule 25-22.006, Florida Administrative Code, Cedar Bay filed its Seventh Request for Confidential Classification of documents, which included information contained in FIPUG's exhibits.

3. On June 29, 2015, pursuant to Rule 25-22.006, Florida Administrative Code, Cedar Bay filed its Tenth Request for Confidential Classification which included FIPUG Exhibits 64, 65, 66, and 67.

4. On July 7, 2015, pursuant to Rule 25-22.006, Florida Administrative Code, FIPUG timely filed objections to Cedar Bay's Seventh Request for Confidential Classification.

5. On July, 9, 2015 counsel for the Commission reiterated via email to all counsel of record the process for requesting confidential classification of documents, including the timeline

and the statutory requirement of stating, in the request for confidential classification, detailed support for the request.

6. On July 13, 2015, after conferring with counsel for FIPUG regarding FIPUG's objections to Cedar Bay's Seventh Request for Confidential Classification, and Cedar Bay's virtually identical Tenth Request for Confidential Classification, counsel for Cedar Bay agreed to revise Cedar Bay's Tenth Request for Confidential Classification and to file a Revised Tenth Request for Confidential Classification. FIPUG and Cedar Bay also agreed that FIPUG's objections to Cedar Bay's Tenth Request then would be raised, if necessary, in response to Cedar Bay's Revised Tenth Request. (Notice of Agreement, Document ID #03479-15).

7. On July 16, 2015, Cedar Bay filed its Revised Tenth Request for Confidential Classification which included FIPUG Exhibits 64, 65, 66, and 67.

8. On July 20, 2015, pursuant to Rule 25-22.006, Florida Administrative Code, Cedar Bay filed its Thirteenth Request for Confidential Classification, which was substantively the same as Cedar Bay's Revised Tenth Request for Confidential Classification, and which included FIPUG Exhibits 64, 65, 66, and 67.

9. On July 27, 2015, FIPUG timely filed its objections to Cedar Bay's Revised Tenth Request for Confidential Classification, including a statement that the same objections applied to Cedar Bay's Thirteenth Request for Confidential Classification.¹

10. On July 28, 2015, the final hearing was held as scheduled. As no ruling had been made on Cedar Bay's multiple and revised requests for confidential classification, FIPUG Exhibits 64, 65, 66, and 67 could not be openly discussed at the hearing.

¹ On July 31, 2015, FIPUG formally filed the same objections to Cedar Bay's Thirteenth Request for Confidential Classification.

11. On August 12, 2015, Cedar Bay filed the unauthorized document that is the subject of this Motion to Strike, to wit, “Cedar Bay Generating Company’s Responses to Objections of Florida Industrial Power User’s Group to Cedar Bay’s [Seventh, Tenth, and Thirteenth] Requests for Confidential Classification.”

12. Rule 25-22.006 does not authorize Cedar Bay to file a “response” to the objections specifically authorized by the Rule, nor does the Rule authorize the Commission to consider “responses” to authorized objections.

13. “Responses” to objections are neither explicitly nor logically authorized by Rule 25-22.006, because the Rule explicitly places the burden of proof wholly on the party seeking confidential classification and, accordingly, requires the party seeking confidential classification to include within the request, the detailed facts and reasoning supporting the request. Once the request is submitted, the only additional filing authorized by the Rule is a timely filed statement of objections. The Rule further provides that the “request and any objections filed in response thereto . . . shall be ruled on expeditiously by the prehearing officer assigned to the docket.”

14. FIPUG timely filed its objections to Cedar Bay’s Seventh, (Tenth), Revised Tenth, and Thirteenth requests for confidential classification.

15. Cedar Bay Generating Company’s Responses to Objections of Florida Industrial Power User’s Group to Cedar Bay’s [Seventh, Tenth, and Thirteenth] Requests for Confidential Classification is an unauthorized filing that should be stricken from the record. Failure to strike the unauthorized response would invite a cycle of never-ending responses and objections in violation of the explicit requirements and purpose of Rule 25-22.006.

DATED THIS 13th day of August 2015.

/s/ Jon C. Moyle

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Florida Industrial Power Users Group's Objections to Joint Motion for Approval of Settlement Agreement was served this 13th day of August 2015 via electronic mail to the following:

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