

Ruth Nettles

080677-EI
090130-EI

From: Butler, John [John.Butler@fpl.com]
Sent: Thursday, November 05, 2009 5:07 PM
To: Filings@psc.state.fl.us
Cc: Lisa Bennett; Anna Williams; Martha Brown; Jean Hartman; 'Kelly.jr@leg.state.fl.us'; 'mcglothlin.joseph@leg.state.fl.us'; 'jess@sugarmansusskind.com'; 'sugarman@sugarmansusskind.com'; 'mbraswell@sugarmansusskind.com'; 'msundback@andrewskurth.com'; 'kwiseman@andrewskurth.com'; 'jspina@andrewskurth.com'; 'lisapurdy@andrewskurth.com'; 'linomendiola@andrewskurth.com'; 'meghangriffiths@andrewskurth.com'; 'swright@yvlaw.net'; 'jlvavia@yvlaw.net'; 'jmoyle@kagmlaw.com'; 'vkaufman@kagmlaw.com'; 'jmcwhirter@mac-law.com'; 'barmstrong@ngnlaw.com'; 'cecilia.bradley@myfloridalegal.com'; 'sda@trippscott.com'; 'tperdue@aif.com'; 'shayla.mcneill@tyndall.af.mil'; 'Mary.Smallwood@Ruden.com'; 'richardb@gtlaw.com'
Subject: Electronic Filing / Docket No. 080677-EI / FPL's Motion to Reopen the Record for Limited Purpose of Admitting Exhibit 180 (FPL MFRs)
Attachments: 11.5.09.Motion to reopen record.pdf

Electronic Filing

a. Person responsible for this electronic filing:

John T. Butler, Esq.
700 Universe Boulevard
Juno Beach, FL 33408
561-304-5639
John.Butler@fpl.com

b. Docket No. 080677-EI
In Re: Application for Increase in Rates by Florida Power & Light Company

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

d. There are a total of 5 pages

e. The document attached for electronic filing is Florida Power & Light Company's Motion to Reopen the Record for Limited Purpose of Admitting Exhibit 180 (FPL MFRs)

John T. Butler
Managing Attorney
Florida Power & Light Company
(561) 304-5639
(561) 691-7135 Fax
John.Butler@fpl.com

DOCUMENT NUMBER-DATE

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FPSC-COMMISSION CLERK

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

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

Docket No: 080677-EI

In re: 2009 depreciation and dismantlement)
study by Florida Power & Light Company)
_____)

Docket No. 090130-EI

Filed: November 5, 2009

**FLORIDA POWER & LIGHT COMPANY'S MOTION TO REOPEN THE RECORD
FOR LIMITED PURPOSE OF ADMITTING EXHIBIT 180 (FPL MFRs)**

Florida Power & Light Company ("FPL" or the "Company"), by and through its undersigned counsel, respectfully requests that the Florida Public Service Commission ("Commission") reopen the record in Docket No. 080677-EI for the limited purpose of admitting into the record FPL's Minimum Filing Requirements and associated schedules for 2009, 2010 and 2011 ("MFRs") that were identified as Exhibit 180 for hearing.

1. On March 18, 2009, FPL filed its Petition for Rate Increase ("Petition").
2. As required by Rule 25-6.043, F.A.C., FPL's MFRs accompanied FPL's Petition. Staff reviewed the MFRs and determined that they met to the Rule's requirements. *See* April 7, 2009 letter from Tim Devlin to Armando Olivera (Document No. 03178-09). Thus, the Commission, Staff and all parties of record have had access throughout this proceeding to complete MFRs satisfying Rule 25-6.043.
3. MFRs provide information regarding a utility's test year revenue requirements and rate request at a prescribed level of detail and format that facilitates review by the Commission, Staff and parties. As such, MFRs are a beneficial reference source for all participants in a rate case.
4. FPL's MFR's were pre-marked for identification on Staff's composite exhibit list as Exhibit 180. Throughout the course of the hearing in the above referenced docket, parties

referred to and relied on the information contained in FPL's MFR's. *See, e.g.*, Tr. 595, 649, 721-724, Tr. 6513-17. Moreover, there were no objections by any parties to the MFRs. Due to inadvertent oversight, however, Exhibit 180 was not moved into the record by any party.

5. To facilitate deliberations on FPL's Petition, FPL requests that the Commission reopen the record in Docket No. 080677-EI for the limited purpose of admitting into the record Exhibit 180, entitled "MFRs – Minimum Filing Requirements".

6. The Commission has stated that, in any matter which goes to hearing, "we reserve the right to reopen the record if at the conclusion of the proceeding we determine that the record is insufficient." Order No. PSC-04-0395-PCO-TP, Docket No. 001503-TP, dated April 14, 2004, at page 3, n.2. On several prior occasions, the Commission has reopened the record of proceedings to admit evidence when the public interest would be served by doing so.¹ In circumstances similar in many respects to the ones at hand, the Commission reopened the record in Docket No. 070299-EI to admit Gulf Power Company's Amended Storm Hardening Plan. The Plan had been provided to all parties in the proceeding well in advance of hearing, it had been relied upon in testimony and briefing, and positions of the parties were predicated upon it, but the Plan had not been admitted into the record. The Commission found that reopening the record and admitting the Plan into evidence served a great public interest, because no one was prejudiced by its admission, it documented the basis for Gulf's intended storm hardening activities, and excluding it would simply result in unnecessary delay. Order No. PSC-07-1022-FOF-EI, dated December 28, 2007, at pages 6-7. FPL submits that each of those factors equally supports admission of FPL's MFRs into the record of this proceeding.

¹ *See, e.g.*, Order No. PSC-07-0483-PCO-EU, Docket No. 060635-EU, dated June 8, 2007; Order No. PSC-00-1777-PCO-TP, dated September 28, 2000, Docket No. 980119-TP; Order No. PSC-99-0093-FOF-WS, dated January 15, 1999, Docket No. 950495-WS; Order No. PSC-98-0509-PCO-SU, dated April 14, 1998, Docket No. 950387-SU.

7. No party of record will be prejudiced by the relief sought through this motion. As described above, FPL's MFRs have been available to all parties since March 18, 2009, and the parties to this docket have relied on FPL's MFRs in testimony and during the hearing. Furthermore, positions taken in this case by parties of record as well as FPL are based on FPL's MFRs.

8. The undersigned counsel has spoken to counsel for the Office of Public Counsel, Office of the Attorney General, SFHHA, FRF, FIPUG and AIF, none of whom objects to this motion. FPL left messages for counsel for the FEA, AFFIRM, City of South Daytona, IBEW and Mr. Ungar but had not received a reply by the time that this motion was filed.

9. FPL respectfully requests that the presiding officer rule promptly on this motion.

WHEREFORE, Florida Power & Light Company respectfully requests the Commission to reopen the record in Docket 080677-EI for the limited purpose of admitting into the record Exhibit 180, FPL's Minimum Filing Requirements, and to immediately re-close the record thereafter.

Respectfully submitted,

R. Wade Litchfield, Vice President of Regulatory
Affairs and Chief Regulatory Counsel
John T. Butler, Managing Attorney
Attorneys for Florida Power & Light Company
700 Universe Boulevard
Juno Beach, Florida 33408-0420
Telephone: (561) 304-5639
Facsimile: (561) 691-7135

By: s/s John T. Butler
John T. Butler
Florida Bar No. 283479

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished electronically this 5th day of November, 2009, to the following:

Lisa Bennett, Esquire
Anna Williams, Esquire
Martha Brown, Esquire
Jean Hartman, Esquire
Office of the General Counsel
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-1400
LBENNETT@PSC.STATE.FL.US
ANWILLIA@PSC.STATE.FL.US
mbrown@psc.state.fl.us
JHARTMAN@PSC.STATE.FL.US

J.R. Kelly, Esquire
Joseph A. McGlothlin, Esquire
Office of Public Counsel
c/o The Florida Legislature
111 West Madison Street, Room 812
Tallahassee, FL 32399-1400
Attorneys for the Citizens of the State
of Florida
Kelly.jr@leg.state.fl.us
mcglothlin.joseph@leg.state.fl.us

Kenneth L. Wiseman, Esquire
Mark F. Sundback, Esquire
Jennifer L. Spina, Esquire
Lisa M. Purdy, Esquire
Lino Mendiola, Esquire
Meghan Griffiths, Esquire
Andrews Kurth LLP
1350 I Street, NW, Suite 1100
Washington, DC 20005
Attorneys for South Florida Hospital and Healthcare
Association ("SFHHA")
kwiseman@andrewskurth.com
msundback@andrewskurth.com
jspina@andrewskurth.com
lisapurdy@andrewskurth.com
linomendiola@andrewskurth.com
meghangriffiths@andrewskurth.com

John W. McWhirter, Jr., Esquire
c/o McWhirter Law Firm
P.O. Box 3350
Tampa, FL 33601
Attorneys for The Florida Industrial Power Users
Group (FIPUG)
jmewhirter@mac-law.com

Robert A. Sugarman, Esquire
D. Marcus Braswell, Jr., Esquire
c/o Sugarman & Susskind, P.A.
100 Miracle Mile, Suite 300
Coral Gables, FL 33134
Attorneys for I.B.E.W. System Council U-4
sugarman@sugarmansusskind.com
mbraswell@sugarmansusskind.com

Robert Scheffel Wright, Esquire
John T. LaVia, III, Esquire
Young van Assenderp, P.A.
225 South Adams Street, Suite 200
Tallahassee, Florida 32301
Attorneys for the Florida Retail Federation
swright@yvlaw.net
jlavia@yvlaw.net

Jon C. Moyle, Jr., Esquire
Vicki Gordon Kaufman, Esquire
Keefe Anchors Gordon & Moyle, PA
118 North Gadsden Street
Tallahassee, FL 32301
Attorneys for The Florida Industrial Power Users Group
(FIPUG)
jmoyle@kagmlaw.com
vkaufman@kagmlaw.com

Brian P. Armstrong, Esquire
Nabors, Giblin & Nickerson, P.A.
1500 Mahan Drive, Suite 200
Tallahassee, FL 32308
Attorneys for the City of South Daytona, Florida
barnstrong@ngnlaw.com

Stephen Stewart
P.O. Box 12878
Tallahassee, FL 32317
Qualified Representative for Richard Ungar
tips@fpscreports.com

Stephanie Alexander, Esquire
Tripp Scott, P.A.
200 West College Avenue, Suite 216
Tallahassee, FL 32301
Attorneys for Association For Fairness In Rate
Making (AFFIRM)
sda@trippscott.com

Shayla L. McNeill, Capt, USAF
Utility Litigation & Negotiation Team
Staff Attorney
AFLOA/JACL-ULT
AFCESA
139 Barnes Drive, Suite 1
Tyndall AFB, FL 32403-5317
Attorneys for the Federal Executive Agencies
shayla.mcneill@tyndall.af.mil

Mary F. Smallwood, Esq.
Ruden, McClosky, Smith, Schuster & Russell, P.A.
215 South Monroe Street, Suite 815
Tallahassee, FL 32301
Attorney for Associated Industries of Florida
Mary.Smallwood@Ruden.com

Cecilia Bradley
Senior Assistant Attorney General
Office of the Attorney General
The Capitol - PL01
Tallahassee, FL 32399-1050
cecilia.bradley@myfloridalegal.com

Tamela Ivey Perdue, Esquire
Associated Industries of Florida
516 North Adams Street
Tallahassee, FL 32301
tperdue@aif.com

Barry Richard, Esq.
Greenberg Traurig, P.A.
101 East College Avenue
Tallahassee, FL 32301
Attorneys for Florida Power & Light Company and FPL
Employee Intervenors
richardb@gtlaw.com

By: s/s John T. Butler
John T. Butler
Florida Bar No. 283479