**BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

COVER SHEET

DATE: October 5, 2010

TO: Ann Cole, Clerk

 Office of Commission Clerk

FROM: Russell and Shirley Ferrell *Petitioner*

RE: Motion - 10/12/10 Regular Agenda and Status of Docket 100312-EI

SPECIAL

REQUEST: May Office of Commission Clerk stamp upon receipt and prior to 10/12/10

 distribute the attached Motion to all Commissioners, Staff authors of 9/30/10 Memorandum and all Parties in Dockets100175-TL and 100312-EI.

**BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

Complaint against Docket No. 100175-TL

AT&T dba BellSouth et.al

Complaint against Docket No. 100312-EI

Florida Power and Light Company et.al

**PETITIONER’S MOTION TO SUSPEND**

**10/12/10 REGULAR AGENDA PENDING CLARIFICATION**

Petitioner moves to suspend October 12, 2010 Florida Public Service Commission (Commission) Regular Agenda pending clarification about status of Docket No. 100312-EI with regard to Florida Power and Light Company (FPL) September 2, 2010 Verified Motion and FPL September 22, 2010 Notice, and resolution of the issues addressed below.

On June 10, 2010 Catherine Beard and Larry Harris via phone call advised Petitioner that Commissioners view Staff recommendations to decide on issues at a hearing.

On October 1, 2010 Petitioner via phone call with Ms. Beard inquired about the status of Docket No. 100312-EI given Florida Power and Light Company (FPL) September 2, 2010 Verified Motion and FPL September 22, 2010 Notice. Commission has issued no order about the matter as it pertains to Docket 100312-EI. Ms. Beard was unable to determine the status of Docket, and no Commission staff has since called or otherwise contacted Petitioner about conclusion of conflict as it relates to this Docket.

On October 4, 2010 Petitioner received copy of Staff recommendations, dated and titled September 30, 2010 Memorandum (Memorandum). 10/12/10 scheduled date of Agenda suggests confusion and seems rushed given no resolution to conflict with regard to Docket No. 100312-EI. Also, Memorandum is factually inaccurate, contradictory in its Staff Analysis and fails to meet Standard of Review whereby Commission is required to “assume all of the allegations of the complaint to be true … and consider the allegations in the light most favorable to the petitioner …”

It would be impossible for Commission Members to be impartial at a hearing where the faulty Memorandum would be the basis of a decision that is least favorable to Petitioner.

Therefore, Petitioner moves to suspend 10/12/10 Agenda pending resolution of issues addressed in this Motion and clarification via Order about Commission conflict and confusion Memorandum presents.

 Oct. 5, 2010 By: */s/* Russell and Shirley Ferrell ***.***

 *Petitioner*