

Eric Fryson

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Sent: Monday, September 24, 2012 6:15 AM
To: Filings@psc.state.fl.us
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Subject: Docket No. 120015-EI - Thomas Saporito's Motion to Strike Florida Power & Light Company's Post Hearing Brief and Statement of Issues and Positions

Attachments: 2012.09.24 Saporito's Motion to Strike.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. The document(s) is/are being filed on behalf of Thomas Saporito.

d. The total number of pages is 3.

e. Brief description of documents being filed:

- Thomas Saporito's Motion to Strike Florida Power & Light Company's Post Hearing Brief and Statement of Issues and Positions

Thank you for your cooperation and timely attention to this electronic filing.

s/Thomas Saporito

DOCUMENT NUMBER-DATE

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9/24/2012

FPSC-COMMISSION CLERK

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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for Rate Increase by
Florida Power and Light Company

Docket No. 120015-EI
Dated: 24 SEPT 2012

**THOMAS SAPORITO'S MOTION TO STRIKE FLORIDA POWER & LIGHT COMPANY'S
POST HEARING BRIEF AND STATEMENT OF ISSUES AND POSITIONS**

Pursuant to Rule 28-106.204, Florida Administrative Code ("F.A.C"), Thomas Saporito (Saporito), hereby moves to strike Florida Power & Light Company's (FPL's) Post Hearing Brief and Statement of Issues and Positions (Brief), and states as follows in support thereof:

On August 17, 2012, the Florida Public Service Commission (Commission) issued Order No. PSC-12-0428-PHO-EI in the above-captioned matter and stated, in relevant part, that:

" . . . Pursuant to Rule 28-106.215, F.A.C., a party's proposed findings of fact and conclusions of law, if any, statement of issues and positions, and brief shall together total no more than 150 pages and shall be filed at the same time. . . "

Id. at p.203.

On September 21, 2012, FPL filed its Brief with the Commission and served the same on the parties. However, FPL's Brief consists of 189-pages and well-beyond the 150-page limitation set-out in the Commission's Order No. PSC-12-0428-PHO-EI. In this instance, FPL was represented by highly polished and well-seasoned attorneys with years of experience in litigation before the Commission. Thus, there can be no doubt that the FPL's violation of the Commission's Order No. PSC-12-0428-PHO-EI in filing a 189-page Brief was "**deliberate**" and "**intentional**" and was done to gain an improper advantage over the other parties in this matter and to affect a favorable ruling for FPL in this docket from the Commission.

To the extent that FPL knowingly, willfully and deliberately violated the Commission's Order No. PSC-12-0428-PHO-EI in filing a 189-page Brief, FPL has (1) violated the "due-process" rights of

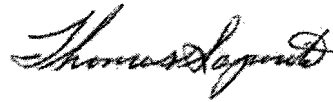
all other parties in this matter; and (2) inappropriately prejudiced the other party's ability to obtain a fair decision by the Commission in this docket.

CONCLUSION

FOR ALL THE ABOVE STATED REASONS, FPL's Post Hearing Brief and Statement of Issues and Positions should be stricken from the record and disregarded in its entirety by the Commission as a matter of law.

Respectfully submitted this 24th day of September, 2012.

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By: _____

**CERTIFICATE OF SERVICE
DOCKET NO. 120015-EI**

I HERBY CERTIFY that a true and correct copy of the foregoing document was served electronically via email/link on this 24th day September of 2012 to the following:

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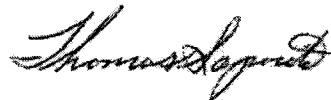
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