

Eric Fryson

From: Thomas Saporito [saporito3@gmail.com]
Sent: Monday, December 03, 2012 4:31 AM
To: Filings@psc.state.fl.us
Cc: Algenol; Brian P. Armstrong; Captain Samuel T. Miller; Caroline Klancke; Charles Rehwinkel; Daniel R. Larson; J. Peter Ripley; J.R.Kelly; John T. Butler; John T. LaVia; John W. Hendricks; Jon C. Moyle; Joseph A. McGlothlin; Karen White; Keino Young; Kenneth L. Wiseman; Larry Nelson; Larry Nelson; Lisa M. Purdy; Maria J. Moncada; Mark F. Sundback; Martha Brown; Patty Christensen; R. Wade Litchfield; Robert Scheffel Wright; Tarik Noriega; Thomas Saporito; Tricia Merchant; Vicki Gordon Kaufman; William C. Garner; William M. Rappolt
Subject: Docket No. 120015-EI (Thomas Saporito's Motion for Summary Final Order Denying Joint Motion for Approval of Settlement Agreement)

Attachments: 2012.12.03 Motion for Summary Final Order (Saporito).pdf

Electronic Filing

a. Person responsible for this electronic filing:

Thomas Saporito
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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 4.

e. Brief description of documents being filed:

- Thomas Saporito's Motion for Summary Final Order Denying Joint Motion for Approval of Settlement Agreement.

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

s/Thomas Saporito

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DOCUMENT NUMBER-DATE

07953 DEC-3 2012

FPSC-COMMISSION CLERK

12/3/2012

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

**In re: Petition for Rate Increase by
Florida Power and Light Company
(Settlement Agreement)**

Docket No. 120015-EI

Dated: 03 DEC 2012

**THOMAS SAPORITO'S MOTION FOR SUMMARY FINAL ORDER DENYING
JOINT MOTION FOR APPROVAL OF SETTLEMENT AGREEMENT**

NOW COMES, *pro se* Citizen Intervenor, Thomas Saporito (Saporito), in accordance with Rule 28-106.204, F.A.C. and hereby moves that the Florida Public Service Commission (Commission) enter a Summary Final Order denying the Joint Motion for Approval of Settlement agreement submitted by the Florida Power & Light Company (FPL) and the Intervenor party signatories to that ("Settlement") on or about August 15, 2012 and states as follows:

PROCEDURAL BACKGROUND

The Commission Ordered further hearing scheduled to take place on November 19-21, 2012 to take testimony and evidence in connection with a "secret" Settlement reached by FPL and three Intervenor parties (hereinafter "Signatories") in the above-captioned matter. Additionally, the Commission Ordered the parties to file post-hearing briefs following the extended hearing in this matter – and that such briefs were to be filed no later than the close of business on November 30, 2012. The extended hearing took place and was concluded within the scheduled period and the record was officially closed. The parties of record have filed their respective post-hearing briefs in this matter; and the Commission has set a date certain (December 13, 2012) to issue a final Order on the Settlement.

STANDARD OF REVIEW

In accordance with Rule 28-106.204, F.A.C., administering section 120.57(1)(h), F.S., in cases where the administrative tribunal¹ has final order authority, any party may move for summary final

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In the instant action, the term administrative tribunal refers to the Commission.

order whenever there is no genuine issue as to any material fact.

LEGAL ARGUMENT

As stated earlier, the record in this matter is officially closed and all parties have filed their respective post-hearing briefs related to the five issues delineated below:

- **ISSUE 1:** Are the generation base rate adjustments for the Canaveral Modernization Project, Riviera Beach Modernization Project, and Port Everglades Modernization Project, contained in paragraph 8 of the Stipulation and Settlement, in the public interest?
- **ISSUE 2:** Is the provision contained in paragraph 10(b) of the Stipulation and Settlement, which allows the amortization of a portion of FPL's Fossil Dismantlement Reserve during the Term, in the public interest?
- **ISSUE 3:** Is the provision contained in paragraph 11 of the Stipulation and Settlement, which relieves FPL of the requirement to file any depreciation or dismantlement study during the Term, in the public interest?
- **ISSUE 4:** Is the provision contained in paragraph 12 of the Stipulation and Settlement, which creates the "Incentive Mechanism" including the gain sharing thresholds established between customers and FPL, in the public interest?
- **ISSUE 5:** Is the Settlement Agreement in the public interest?

In thorough review and consideration of the record testimony and evidence; and in review and consideration of the post-hearing briefs filed in the instant action - all genuine issues of material fact have been resolved in favor of the non-signatory parties to the Settlement. Therefore, there is no genuine issue as to any material fact remaining before the Commission to consider and rule.

CONCLUSION

FOR ALL THE ABOVE STATED REASONS, there is no genuine issue as to any material fact before the Commission to consider and rule; and therefore it is proper that the Commission enter a Summary Final Order denying the Settlement as a matter of law.

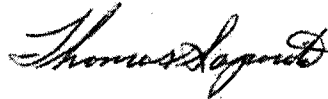
PRAYER FOR RELIEF

The Citizens of the state of Florida as duly represented by the Office of Public Counsel (OPC) - including Saporito and the other non-signatories to the Settlement - have expended a great deal of resources

in vigorously arguing against the Settlement in the instant action. Notably, Citizen Intervenors Saporito and Hendricks are before the Commission *pro se* and have expended a great deal of “personal” resources in vigorously arguing against the Settlement in the instant action. Thus, to the extent that the rule-of-law authorizes the Commission to enter a Summary Final Order denying the Settlement - where there is no genuine issue as to any material fact before the Commission to consider and rule, the undersigned Intervenor prays that the Commission grants [h]is motion so that he and the Citizens of Florida are not further harmed in this matter and required to appear before the Commission on December 13, 2012 to receive the Commission's ruling on the Settlement.

Respectfully submitted this 3rd day of December 2012.

Thomas Saporito
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Jupiter, Florida 33458
Phone: (561) 972-8363
Email: saporito3@gmail.com




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 3rd day of December 2012 to the following:

Keino Young Florida Public Service Commission 2540 Shumard Oak Boulevard Tallahassee, Florida 32399-0850	Daniel & Alexandra Larson 16933 W. Harlena Drive Loxahatchee, Florida 33470
John T. Butler Florida Power & Light Company 700 Universe Blvd. Juno Beach, Florida 33408-0420	William C. Gardner Nabors, Giblin & Nickerson, P.A. 1500 Mahan Drive, Suite 200 Tallahassee, Florida 32308
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By: _____