

Eric Fryson

From: Thomas Saporito [saporito3@gmail.com]
Sent: Tuesday, August 21, 2012 7:46 AM
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Subject: Docket No. 120015-EI (Thomas Saporito's Response in Opposition to Joint Motion for Approval of Settlement Agreement)

Attachments: 2012.08.21 Response to Joint Motion - Settlement.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. Documents being filed on behalf of the Office of Public Counsel

d. There are a total of 5 pages.

e. The document attached for electronic filing is: THOMAS SAPORITO'S RESPONSE IN OPPOSITION TO JOINT MOTION FOR APPROVAL OF SETTLEMENT AGREEMENT.

Thank you for your attention and cooperation to this request.

/Thomas Saporito

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DOCUMENT NUMBER DATE

05724 AUG 21 2012

FPSC-COMMISSION CLERK

8/21/2012

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

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

Docket No. 120015-EI
Served: 21 AUG 2012

THOMAS SAPORITO'S RESPONSE IN OPPOSITION TO
JOINT MOTION FOR APPROVAL OF SETTLEMENT AGREEMENT

COMES NOW, Thomas Saporito (Saporito), *pro se* Intervenor in the above-captioned matter and submits *Thomas Saporito's Response in Opposition to Joint Motion for Approval of Settlement Agreement* (Settlement) and states as follows:

BACKGROUND

On August 15, 2012, the Florida Power & Light Company (FPL) and the Florida Industrial Power Users Group (FIPUG) and the South Florida Hospital and Healthcare Association (SFHHA) and the Federal Executive Agencies (FEA) (collectively "Signatories") jointly and collectively filed a Joint Motion (Joint Motion) with the Florida Public Service Commission (Commission) for approval of the Settlement. Saporito along with the Florida Retail Federation (FRF) and the Office of Public Counsel (OPC) and one or more other Intervenor parties were not Signatories to the Settlement or the Joint Motion.

On August 20, 2012, OPC filed with the Commission, *Office of Public Counsel's Motion to Dismiss the Settlement Submitted by FPL/SFHHA/FIPUG/FEA or Set for Expedited Oral Argument on the Motion to Approve the Settlement Submitted by FPL/SFHHA/FIPUG/FEA or in the Alternative Dismiss FPL's Petition for Rate Increase Submitted March 2012*.

On August 20, 2012 during the normal course of proceedings in this Docket, the Commission voted unanimously to deny OPC's motion in its entirety - and to allow the Docket to move forward without a ruling on the Settlement.

On August 20, 2012, after the close of the proceeding in this Docket, Saporito filed with the

Commission - *Thomas Saporito's Motion in Limine Regarding any Testimony Related to the Proposed Settlement Agreement Between the Florida Power and Light Company and the Florida Industrial Power Users Group and the South Florida Hospital and Healthcare Association and the Federal Executive Agencies*. Saporito's Motion in Limine has not yet been addressed by the Commission and is expected to be taken-up by the Commission at the opening of the instant action this date.

ARGUMENT

There exists serious and fatal legal deficiencies within Settlement which begs that the Commission issue an order to deny the Settlement in the interest of justice, fairness, and due-process to the non-signatory parties.¹ The Settlement is legally deficient in several areas as follows:

1. The Settlement claims to resolve all of the issues of the pending rate case in this Docket - but this assertion is facially incorrect - as the Settlement is executed among four of the eleven parties in this Docket and is absent OPC's approval - who represents the interests of all ratepayers in Commission proceedings as intended by the Florida Legislature. The absence of OPC's approval - standing alone - is sufficient grounds to warrant that the Commission deny the Settlement as a matter of law.
2. The Settlement contains terms that are materially different to those terms filed by FPL in this Docket. As such, the Settlement - in and of itself - constitutes a separate petition on the part of FPL seeking a rate increase before the Commission.
3. Section 366.081, Fla. Stat. legislatively envisions but a single petition for a rate increase be held before the Commission under Chapter 120, Fla. Stat. to ensure for the protection of due-process rights of the parties to the proceeding.
4. This Commission now has two-separate petitions filed by FPL seeking to increase base rates before it for decision. This unprecedented situation was first brought by the Signatories to the Settlement - and later endorsed by the Commission - when the Commission denied OPC's motion to dismiss settlement filed with the Commission on August 20, 2012.

The decision of the Commission to allow FPL to move forward with two-separate petitions requesting to increase base rates - **has impinged on the "due-process" rights of Saporito** as a matter of law where such action on the part of the Commission is severely prejudicial to Saporito who now has an increased and unmanageable burden to deal with two-separate rate cases at the very same time.

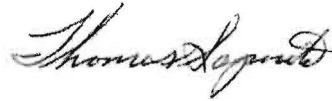
¹ Through this reference, Saporito adopts and incorporates all legal argument and points of authority cited in OPC's August 20, 2012 motion to dismiss settlement into this pleading.

CONCLUSION

FOR ALL THE ABOVE-STATED REASONS, Saporito urges the Commission to issue an Order Denying the Settlement as a matter of law - to protect the integrity of these rate case proceedings and the due-process rights of Saporito and other non-signatory parties to the Settlement, and to ensure that other citizens who may have jurisdictional standing to Intervene in rate cases before the Commission - are not otherwise "**chilled**" from doing so because of decisions made in this Docket which allow for an illegal and improper dual rate case proceeding - which throws the due-process rights of the non-signatory parties to the Settlement - under the bus!

Respectfully submitted this 21st day of August 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 21st day of August 2012 to the following:

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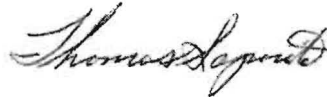
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