

Eric Fryson

From: Saprodani Assoc [saprodani@gmail.com]
Sent: Thursday, January 31, 2013 12:20 PM
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; Tricia Merchant; Vicki Gordon Kaufman; William C. Garner; William M. Rappolt
Subject: Docket No. 120015-EI Saporito's Motion to Strike FPL's Statement

Attachments: 2013.01.31 S Motion to Strike.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 3.

e. Brief description of documents being filed:

- Thomas Saporito's Motion to Strike FPL's Statement Regarding Hendricks's Response in Support of Saporito's Motion for Reconsideration

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

s/Thomas Saporito

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DOCUMENT NUMBER-DATE
00636 JAN 31 2013
FPSC-COMMISSION CLERK

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

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

Docket No. 120015-EI
Dated: 31 JAN 2013

THOMAS SAPORITO'S MOTION TO STRIKE FPL'S STATEMENT
REGARDING HENDRICKS'S RESPONSE IN SUPPORT OF SAPORITO'S
MOTION FOR RECONSIDERATION

NOW COMES, *pro se* Intervenor, Thomas Saporito, ("Saporito") and hereby files his Motion to Strike FPL's Statement Regarding Hendricks's Response in Support of Saporito's Motion for Reconsideration ("Motion"), and states as follows:

On January 30, 2013, Florida Power & Light Company (FPL) through counsel submitted *FPL's Statement Regarding Hendricks's Response in Support of Saporito's Motion for Reconsideration* (Statement). The Florida Public Service Commission (FPSC) should strike FPL's Statement from the record as a matter of law for the following reasons:

1. FPL's failed to cite to any authority allowing its filing of the Statement in this matter;
2. There is no Commission rule or statutory authority which would otherwise allow the Commission to consider FPL's Statement as a matter of law; and
3. FPL's Statement does not appear to be factual or accurate and would otherwise mislead the Commission in the instant action.

First, FPL claims that Hendricks response in untimely because it was filed outside the 7-day allowable period for filing responses to motions. However, Hendricks is participating in this matter as a *pro se* Intervenor and should be given an exception to the rigors of timely filings in this matter.

Notably, the Commission has broad authority to allow the Hendricks response in this matter and should do so as the Commission has given latitude to other Intervenors in the instant action.

FPL next falsely alleges that Hendricks's response is unauthorized because it amounts to a reply. However, such is not the case – as Hendricks properly filed his views in support of Saporito's motion

and did not specifically reply to FPL's opposition.

Finally, FPL falsely alleges that Hendricks's response is unnecessary and duplicative. However, nothing could be further from the truth – as Hendricks identified specific points of law and explained specific legal arguments in his response that were not presented in Saporito's motion.

FOR ALL THE FOREGOING REASONS, the Commission should strike FPL's Statement from the record in this Docket as a matter of law.

Respectfully submitted this 31st day of January, 2013.

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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 31st day of January, 2013 to the following:

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By: _____