

**BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

In re: Petition for base rate increase by Florida)  
Power & Light Company)

Docket No. 160021-EI  
Filed: April 18, 2016

**FLORIDA POWER & LIGHT COMPANY'S OBJECTIONS AND RESPONSES  
TO THE OFFICE OF PUBLIC COUNSEL'S FIRST SET OF INTERROGATORIES  
(NOS. 1-87) AND FIRST REQUEST FOR PRODUCTION OF DOCUMENTS (NOS. 1-47)**

Florida Power & Light Company ("FPL"), pursuant to Rules 1.340 and 1.350, Florida Rules of Civil Procedure, and Rule 28-106.206, Florida Administrative Code, and this Commission's Order Establishing Procedure PSC-16-0125-PCO-EI, submits the following objections and responses to the Office of Public Counsel's First Set of Interrogatories (Nos. 1-87) and First Request for Production of Documents (Nos. 1-47).

**I. General Objections**

FPL objects to each and every request for documents that calls for information protected by the attorney-client privilege, the work product doctrine, the accountant-client privilege, the trade secret privilege, or any other applicable privilege or protection afforded by law, whether such privilege or protection appears at the time response is first made or is later determined to be applicable for any reason. FPL in no way intends to waive such privilege or protection. The nature of the document(s), if any, will be described in a privilege log prepared by FPL.

In certain circumstances, FPL may determine, upon investigation and analysis, that information responsive to certain discovery requests to which objections are not otherwise asserted is confidential and proprietary and should be produced only with provisions in place to protect the confidentiality of the information. By agreeing to provide such information in response to such request, FPL is not waiving its right to insist upon appropriate protection of confidentiality by means of a protective order or other action to protect the confidential

information requested. FPL asserts its right to require such protection of any and all documents that may qualify for protection under the Florida Rules of Civil Procedure and other applicable statutes, rules and legal principles.

FPL is a large corporation with employees located in many different locations. In the course of its business, FPL creates numerous documents that are not subject to Florida Public Service Commission or other governmental record retention requirements. These documents are kept in numerous locations and frequently are moved from site to site as employees change jobs or as business is reorganized. Therefore, it is possible that not every relevant document may have been consulted in developing FPL's response. Rather, these responses provide all the information that FPL obtained after a reasonable and diligent search conducted in connection with this discovery request. To the extent that the discovery requests propose to require more, FPL objects on the grounds that compliance would impose an undue burden or expense on FPL.

FPL objects to each request to the extent that it seeks information that is duplicative, not relevant to the subject matter of this docket, and is not reasonably calculated to lead to the discovery of admissible evidence.

FPL objects to each and every discovery request to the extent it is vague, ambiguous, overly broad, imprecise, or utilizes terms that are subject to multiple interpretations but are not properly defined or explained for purposes of such discovery requests. Any responses provided by FPL will be provided subject to, and without waiver of, the foregoing objection.

FPL also objects to each and every discovery requests to the extent they call for FPL to prepare information in a particular format or perform calculations or analyses not previously prepared or performed as purporting to expand FPL's obligations under applicable law. FPL will comply with its obligations under the applicable rules of procedure.

FPL objects to providing information to the extent that such information is already in the public record before the Florida Public Service Commission and available to the Office of Public Counsel through normal procedures or is readily accessible through legal search engines.

FPL objects to each and every discovery request that calls for the production of documents and/or disclosure of information from NextEra Energy, Inc. and any subsidiaries and/or affiliates of NextEra Energy, Inc. that do not deal with transactions or cost allocations between FPL and either NextEra Energy, Inc. or any subsidiaries and/or affiliates. Such documents and/or information do not affect FPL's rates or cost of service to FPL's customers. Therefore, those documents and/or information are irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Furthermore, FPL is the party appearing before the Florida Public Service Commission in this docket. To require any non-regulated entities to participate in irrelevant discovery is by its very nature unduly burdensome and overbroad. Subject to, and without waiving, any other objections, FPL will respond to the extent the request pertains to FPL and FPL's rates or cost of service charged to FPL's customers. To the extent any responsive documents contain irrelevant affiliate information as well as information related to FPL and FPL's rates or cost of service charged to its customers, FPL may redact the irrelevant affiliate information from the responsive document(s).

Where any discovery request calls for production of documents, FPL objects to any production location other than the location established by FPL, at FPL's Tallahassee Office located at 215 South Monroe Street, Suite 810, Tallahassee, Florida, unless otherwise agreed by the parties.

FPL objects to each and every discovery request and any instructions that purport to expand FPL's obligations under applicable law.

In addition, FPL reserves its right to count discovery requests and their sub-parts, as permitted under the applicable rules of procedure, in determining whether it is obligated to respond to additional discovery requests served by any party.

FPL expressly reserves and does not waive any and all objections it may have to the admissibility, authenticity or relevancy of the information provided in its responses.

## **II. Specific Objections**

FPL incorporates by reference all of the foregoing General Objections into its Specific Objections set forth below as though fully stated herein.

### **Interrogatories**

Interrogatory No. 15: FPL objects to the portion of this question which seeks to provide “actual and budgeted planned generation maintenance by unit with explanations of variances more than 15%” as overbroad, unduly burdensome, immaterial, and not reasonably calculated to lead to the discovery of admissible evidence.

Interrogatory No. 16: FPL objects to the portion of this question which seeks to provide “NEE and NEER accumulated deferred income tax (“ADIT”) balances” as overbroad, immaterial, and not reasonably calculated to lead to the discovery of admissible evidence. NEE’s and NEER’s ADIT balances are irrelevant in this proceeding and do not pertain to FPL’s ADIT balance, FPL’s rates or cost of service charged to FPL’s customers. Therefore, those documents and/or information are irrelevant and not reasonably calculated to lead to the discovery of admissible evidence.

Interrogatory No. 19: FPL objects to the portion of this question which seeks to provide “NEE accumulated deferred income tax (“ADIT”) and net operating loss (“NOL”) carry-forwards” as overbroad, immaterial, and not reasonably calculated to lead to the discovery of

admissible evidence. NEE's ADIT and NOL carry-forwards are irrelevant in this proceeding and do not pertain to FPL's rates or cost of service charged to FPL's customers. Therefore, those documents and/or information are irrelevant and not reasonably calculated to lead to the discovery of admissible evidence.

Interrogatory No. 23: FPL objects to the portion of this question which seeks to provide "the uncertain tax positions of NextEra Energy, Inc. ("NEE")" as overbroad, immaterial, and not reasonably calculated to lead to the discovery of admissible evidence. NEE's uncertain tax positions does not pertain to FPL's rates or cost of service charged to FPL's customers. Therefore, those documents and/or information are irrelevant and not reasonably calculated to lead to the discovery of admissible evidence.

Interrogatory No. 25: FPL objects to the portion of this question which seeks to provide "any tax audits of NextEra Energy, Inc. ("NEE")" as overbroad, immaterial, and not reasonably calculated to lead to the discovery of admissible evidence. Any federal or state tax audit of NEE is irrelevant to this proceeding and does not pertain to FPL's rates or cost of service charged to FPL's customers. Therefore, those documents and/or information are irrelevant and not reasonably calculated to lead to the discovery of admissible evidence

Interrogatory No. 31: FPL objects to the portion of this question which seeks to provide "how NextEra Energy, Inc. ("NEE") accounts for costs related to the proposed acquisition of Hawaiian Electric Industries ("HEI")" as overbroad, immaterial, and not reasonably calculated to lead to the discovery of admissible evidence. NEE's accounting of the acquisition of HEI does not pertain to FPL's rates or cost of service charged to FPL's customers. Therefore, those documents and/or information are irrelevant and not reasonably calculated to lead to the discovery of admissible evidence.

Interrogatory No. 40: FPL objects to the portion of this question which seeks to provide “the capital structure of NextEra Energy, Inc. (“NEE”) and all associated subsidiaries” as overbroad, immaterial, and not reasonably calculated to lead to the discovery of admissible evidence. NEE’s associated subsidiaries’ capital structure does not pertain to FPL’s rates or cost of service charged to FPL’s customers. Therefore, those documents and/or information are irrelevant and not reasonably calculated to lead to the discovery of admissible evidence.

Interrogatory No. 57: FPL objects to the portion of this question which seeks to provide “any sale of utility property since FPL’s last fully litigated rate case” as overbroad in time, unduly burdensome, immaterial, and not reasonably calculated to lead to the discovery of admissible evidence. FPL’s objects to providing each general plant facility sold during the last 20 years since sales of utility land are amortized over a five-year period.

### **Requests for Production**

Request No. 10: FPL objects to the portion of this request that seeks “presentations made to financial institutions, rating agencies, institutional investor and/or investment firms by NextEra Energy . . .” as overbroad, irrelevant, immaterial and not reasonably calculated to lead to the discovery of admissible evidence. Presentations made by NextEra Energy unrelated to FPL are irrelevant to this proceeding and do not affect FPL's rates or cost of service.

Request No. 33: FPL objects to the portion of this request that seeks board meeting minutes “where the capital structure of NextEra Energy . . . was discussed” as overbroad, irrelevant, immaterial and not reasonably calculated to lead to the discovery of admissible evidence. NextEra Energy’s capital structure does not affect FPL's rates or cost of service.

Request No. 34: FPL objects to the portion of this request that seeks “all correspondence between any credit rating agencies and NextEra Energy . . .” as overbroad, irrelevant, immaterial and not reasonably calculated to lead to the discovery of admissible evidence. Any correspondence between NextEra Energy and credit rating agencies unrelated to FPL are irrelevant to this proceeding and does not affect FPL's rates or cost of service. Moreover, the documents requested would likely require the search and production of potentially all pieces of paper generated by each person in multiple business units over the last four years. This burden would entail scrubbing email databases for multiple employees, searching employee files for all notes, all project files for this request, and redacting portions of all documents that are non-responsive. Attempting to identify all items would result in undue burden and expense on FPL, is not reasonably calculated to lead to the discovery of admissible evidence, and may result in unnecessary production of documents that are irrelevant.

### **III. Responses**

1. Attached hereto are FPL's non-confidential answers to OPC's First Set of Interrogatories Nos. 1-87, consistent with its objections, along with the declarations of the persons providing the answers.

2. FPL will serve all non-confidential documents responsive to OPC's First Request for Production of Documents Nos. 1-47 in accordance with Order No. PSC-16-0125-PCO-EI.

3. Contemporaneous with this filing, FPL is filing a Motion for Temporary Protective Order to exempt from section 119.07(1), Florida Statutes, certain confidential information included in FPL's response to the Office of Public Counsel's ("OPC") First Set of Interrogatories (Nos. 3, 20, 25, 46, 68) and Request for Production of Documents (Nos. 1, 2, 7, 8, 10, 11, 15, 19-21, 28, 33, 34, 36, 38, 39).

4. Confidential answers and documents will be available for review subject to the procedures set forth in FPL's Confidentiality Agreement.

Respectfully submitted this 18<sup>th</sup> day of April, 2016.

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## CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by electronic mail this 18th day of April, 2016, to the following parties:

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