

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

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

DOCKET NO.: 160021-EI

FILED: August 9, 2016

PETITIONERS RESPONSE IN OPPOSITION
TO FPL's MOTION TO STRIKE

Pursuant to Rule 28-106.204, Florida Administrative Code ("F.A.C."), Mr. Daniel R. Larson and Mrs. Alexandria Larson ("Petitioners"), by and through undersigned counsel, hereby file Petitioners Response in Opposition to FPL's Motion to Strike the Petitioners Reply to FPL's Response in Opposition to the underlying Petition to Intervene in the above captioned docket. In support thereof, the Petitioners state as follows:

1. The FPL Motion to Strike is defective as filed and fails to conform to the specific requirements of Rule 28-106.204, F.A.C. Specifically, Rule 28-106.204(3), F.A.C. requires that:

"All motions, other than a motion to dismiss, shall include a statement that the movant has conferred with all other parties of record and shall state as to each party whether the party has any objection to the motion. Any statement that the movant was unable to contact the other party or parties before filing the motion must provide information regarding the date(s) and method(s) by which contact was attempted."

The FPL Motion to Strike fails to include this required statement. Moreover, FPL counsel did not make any attempt to confer with undersigned counsel with respect to the FPL motion. Accordingly, the FPL Motion to Strike is defective as filed, fails to conform

to the requirements of Rule 28-106.204, F.A.C., and the FPL Motion to Strike should therefore be properly denied by the Commission.

2. FPL counsel had an ethical obligation to disclose prior adverse precedent to this Commission, but notably failed to identify this prior adverse precedent in the FPL response.¹ Accordingly, Petitioners' reply was both necessary and proper in order to advise the Commission of the failure of FPL counsel to disclose prior adverse precedent and prevent a fraud from being perpetrated on the Commission. Indeed, a reply is contemplated and allowed in certain circumstances under Rule 28-106.204(1), F.A.C. Petitioners assert that having to request and wait for leave be granted in order to file a reply, however, would otherwise preclude Petitioners from making the Commission aware of the prior FPSC Order, and the failure of FPL counsel to adhere to its ethical obligations, in a timely manner.
3. On August 8, 2016, undersigned counsel made a good faith effort to confer with FPL counsel via e-mail to resolve the FPL Motion to Strike and the underlying Petition to Intervene. As of the time of this filing, FPL counsel had not extended the professional courtesy of providing a response to Petitioners good faith attempt to amicably resolve these issues.
4. As the FPL Motion to Strike is defective and fails to conform to the specific requirements of Rule 28-106.204, F.A.C., Petitioners respectfully request the Commission to deny the FPL Motion to Strike and immediately enter an order granting the Petition to Intervene in the above captioned docket consistent with past Commission precedent.²

¹ FPSC Order No. PSC-12-0221-PCO-EI, issued April 26, 2012 (granting Petition for Intervention).

² Id.

WHEREFORE, Petitioners respectfully request the Commission to deny the FPL Motion to Strike and immediately enter an order granting the Petition to Intervene in the above captioned docket.

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished to the parties of record and interested parties indicated below via electronic mail on August 9, 2016:

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