

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for determination of need for
Dania Beach Clean Energy Center Unit No. 7,
by Florida Power & Light Company.

DOCKET NO. 20170225-EI

Filed: December 19, 2017

**FLORIDA POWER & LIGHT COMPANY'S
MOTION TO COMPEL DEPOSITION OF
SUSANNAH RANDOLPH OF THE SIERRA CLUB**

Florida Power & Light Company (“FPL”), by and through its undersigned counsel, pursuant to Rule 1.380(a), Florida Rules of Civil Procedure (“F.R.C.P.”), and Rules 28-106.204, 28-106.206, Florida Administrative Code (“F.A.C.”), and Order No. PSC-2017-0426-PCO-EI, hereby moves to compel the deposition of Susannah Randolph of the Sierra Club, and states as follows:

1. On November 2, 2017, Sierra Club filed its Petition to Intervene in this proceeding. (See Exhibit “A”) As part of Sierra Club’s intervention petition, it filed as an exhibit the declaration of Susannah Randolph (the Florida Senior Campaign Representative for Sierra Club’s Beyond Coal Campaign). (See Exhibit “B”) Furthermore, Ms. Randolph has been copied on Sierra Club’s petition to intervene and most if not all pleadings served upon FPL by Sierra Club in this proceeding. (See Exhibit “C”)

2. Although FPL is not challenging Sierra Club’s standing to intervene in this proceeding, FPL did propound discovery to Sierra Club addressing the basis and source of some of the claims made in its intervention petition. In their responses to FPL’s discovery, Sierra Club attributed many of their claims specifically to statements of Ms. Randolph. For example, Ms. Randolph stated in her declaration that “Sierra Club is dedicated to reducing pollution through rapid transition away from fossil fuel burning electricity generation; energy efficiency, solar

power, wind power, and storage are low-cost low risk alternatives to generating electricity from fossil fuels; and Sierra Club advocates for such policies by intervening and participating in energy related proceedings.”

3. Moreover, in Sierra Club’s responses to FPL’s First Set of Interrogatories and Request for Production of Documents, Sierra Club provided a copy of a November 6, 2017 email from Ms. Randolph to FPL’s president, Eric Silagy, specifying her management of Sierra Club’s advocacy and litigation around power plants and clean energy in Florida. (See Exhibit “D”). Ms. Randolph’s email also described Sierra Club’s advocacy and positions against the Dania Beach modernization project.

4. On December 5, 2017, FPL requested to take the depositions of Sierra Club’s expert consultant, Ezra Hausman, the Sierra Club corporate representative regarding the subject matter and positions of Sierra Club in this proceeding, and Ms. Randolph. (See Exhibit “E”). After further discussions regarding Ms. Randolph’s deposition, Sierra Club advised on December 8, 2017 that if FPL still had an interest in deposing Ms. Randolph after deposing the corporate representative, they would discuss the matter further. *Id.*

5. On December 14, 2017, FPL took the deposition of Sierra Club’s designated corporate representative, Nachy Kanfer, in Cincinnati, Ohio. During the deposition, Mr. Kanfer was unable to answer some of the basic questions pertaining to the basis and source of some of the statements that Sierra Club made in its Petition to Intervene and the positions that Ms. Randolph identified in her declaration and in several instances pointed to Ms. Randolph as the Sierra Club representative who could answer specific relevant questions from FPL about matters in this proceeding. (See Exhibit “F”) Specifically, Mr. Kanfer identified Ms. Randolph as the author of the motion passed by the Sierra Club Broward Group’s Executive Committee to oppose

the Dania Beach Clean Energy Center, and as the non-attorney most knowledgeable about the motion. (Kanfer Deposition Transcript 56:7-59:16). Furthermore, when Mr. Kanfer was asked whether the Sierra Club had a position on whether there was a need for the Dania Beach Clean Energy Center at the time Sierra Club filed a Petition to Intervene in this docket, Mr. Kanfer pointed FPL to Ms. Randolph's declaration in support of the Petition to Intervene. (Kanfer Deposition Transcript 97:11-98:15; 125:12-20). Mr. Kanfer further referenced Ms. Randolph as a source of information on Sierra Club's Ready for 100 Campaign, which was a topic of inquiry by Sierra Club at the deposition of Dr. Steven R. Sim of FPL. (Kanfer Deposition Transcript, 149:14-150:6

6. Florida's Rules of Civil Procedure affords FPL the opportunity to conduct discovery on Sierra Club, a party to this proceeding. It is well-established that discovery is not limited to outside witnesses/consultants who are not in a position to speak on all issues on behalf of the Sierra Club. FPL contends that it is fair and reasonable to have the opportunity to depose an appropriate Sierra Club representative, in this case Ms. Randolph, who has knowledge or may have knowledge regarding the basis and source(s) of some of the claims and statements identified in Sierra Club's Petition to Intervene and other written positions taken in this proceeding.

7. The Florida Courts have consistently held that discovery is designed to avoid "trial by ambush". FPL should be allowed the opportunity to partake in discovery on all issues within the broad scope of discovery to avoid just such a trial by ambush. F.R.C.P. Rule 1.280(a), and 1.310. "All the discovery rules and the extensive efforts of parties to discover the other party's case would be for naught if one side were able to wait until after the trial started to establish key pieces of evidence such as what occurred in this case." Grau v. Branham, 626 So.

2d 1059 (Fla. 4th DCA, 1993). The goals of procedural rules are to eliminate surprise, encourage settlement, and assist in getting to the truth. Spencer v. Beverly, 307 So. 2d 461 (Fla. 4th DCA 1975).

8. This Commission has previously granted motions to compel depositions as a part of discovery in a number of proceedings. In Order No. PSC-02-1260-PCO-EI, the Commission granted FPL's motion to compel the deposition of the Florida Action Coalition Team ("FACT") witness after FACT was granted intervention in the Need Determination proceeding in Docket Nos. 020262-EI and 020263-EI. In Order No. PSC-09-0564-PCO-EI, the Commission granted FPL's motion to compel the deposition of the South Florida Hospital and Healthcare Association President on the basis that the deponent may have relevant evidence and there may be information that could be reasonably calculated to lead to the discovery of admissible evidence. FPL contended, as it does here, that the deposition is intended to assist FPL in the preparation of its case and for purposes of cross examination of the intervenor's outside consultant.

9. Ms. Randolph clearly has information that is relevant and/or reasonably calculated to lead to the discovery of admissible evidence. Sierra Club's statements cited above in its Petition to Intervene and produced in the documentary evidence in its responses to FPL's discovery request in this proceeding were derived from Ms. Randolph.

10. Pursuant to Rule 28-106.204(c), F.A.C., on December 18, 2017, FPL requested via email that Sierra Club and the Office of Public Counsel (OPC) indicate whether or not they oppose FPL's Motion to Compel. OPC responded by email that it took no position on FPL's Motion. Sierra Club did not respond to FPL's email request for a position on FPL's Motion.

WHEREFORE, Florida Power & Light Company respectfully requests that the foregoing motion be granted and this Commission enter an Order compelling Sierra Club to make Ms.

Susannah Randolph available for deposition within five days after the date of issuance of its Order, and any other relief this Commission deems just and proper.

Respectfully submitted,

William Cox
Senior Attorney – Regulatory
Fla. Bar No. 0093531
Kevin I.C. Donaldson
Senior Attorney
Fla. Bar No. 833401

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By: s/ Kevin I.C. Donaldson
Kevin I.C. Donaldson
Fla. Bar No. 833401

**CERTIFICATE OF SERVICE
DOCKET NO. 20170225-EI**

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by electronic mail this 19th day of December, 2017 to the following:

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By: s/ Kevin I.C. Donaldson
Kevin I.C. Donaldson
Fla. Bar No. 833401

EXHIBIT "A"

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

Re: Petition for determination of need for
Dania Beach Clean Energy Center Unit
7, by Florida Power & Light Company

Docket No. 20170225
Filed: November 2, 2017

SIERRA CLUB'S
PETITION TO INTERVENE

Pursuant to Sections 120.569, 120.57, Florida Statutes (F.S.), and Rules 25-22.039, 28-106.201, and 28-106.205 Florida Administrative Code (F.A.C.), Sierra Club hereby petitions for leave to intervene in the above captioned docket and states:

1. Agency's name and address. The affected agency is the Florida Public Service Commission, 2540 Shumard Oak Boulevard, Tallahassee, FL 32399-0850.
2. Petitioner's name and addresses. Petitioner is Sierra Club with the following headquarters and local addresses:

Sierra Club, National Headquarters
2101 Webster Street, Suite 1300
Oakland, CA 94612
415-977-5500

Sierra Club, Florida Chapter
1990 Central Avenue
St. Petersburg, FL 33712
727-824-8813

3. Petitioner's representatives. Copies of all notices, pleadings, orders and other communications in this docket should be directed to:

Julie Kaplan
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50 F Street, NW, Eighth Floor
Washington, DC 20001
202-548-4592
Julie.Kaplan@SierraClub.org

Diana Csank
Staff Attorney
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202-548-4595
Diana.Csank@SierraClub.org

4. Notice of docket. Based upon Sierra Club's involvement in Docket No. 20170122, In re: Petition for exemption under Rule 25 -22.082(18), F.A.C., from issuing a request for proposals (RFPs) for modernization of the Lauderdale Plant, by Florida Power & Light Company (hereinafter "Petition for Exemption Docket"), petitioner has been on notice that FPL would shortly petition for a determination of need and learned of this filing from a newspaper article.

Background

5. Sierra Club has previously raised related concerns about FPL's proposal to construct the new gas power generation facilities at Dania Beach (the "Project") before the PSC, submitting comments and seeking to intervene in an earlier docket. See Petition for Exemption Docket. In that matter, Sierra Club objected to FPL's petition to exempt the Project from a bid process designed "to ensure that a public utility's selection of a proposed generation addition is the most cost-effective alternative available" and ultimately intended "to provide the Commission information to evaluate a public utility's decision regarding the addition of generating capacity [when determining need]". Rule 25-22.082(1), F.A.C. The Public Service Commission ("PSC" or "Commission") agreed with Sierra Club that "FPL's Petition for Exemption and supporting documentation [did not] provide[] sufficient information to allow [the] Commission to evaluate cost-effective alternatives . . ." Petition

For Exemption Docket, Order Denying Sierra Club’s Motion to Intervene and Protest Proposed Agency Action, Order No. PSC-2017-0358-PCO-EI at 5 (September 20, 2017). The Commission reserved that evaluation to the current docket and denied Sierra Club’s motion to intervene. *Id.*

6. The Sierra Club remains concerned about the adequacy of FPL’s evaluation of alternatives. The Commission has stated that in this docket it will “evaluate cost-effective alternatives and determine the need for the FPL’s proposed project pursuant to Section 403.519, F.S.” See Petition for Exemption Docket, Order Denying Sierra Club’s Motion to Intervene and Protest Proposed Agency Action, Order No. PSC-2017-0358-PCO-EI at 4-5 (September 20, 2017). As explained further below, Sierra Club therefore seeks to intervene to argue, *inter alia*, that FPL has not met its burden of “demonstrate[ing] that the project is the most cost-effective source of power” and “whether conservation or renewable generation can mitigate the need for the modernization of the Lauderdale plant.” Petition for Exemption Docket, Notice of Proposed Agency Action Order Granting FPL Co.’s Petition for Exemption, Docket No. 20170122-EI, Order No. PSC-2017-0287-PAA-EI at 4 (July 24, 2017).

Statement of Substantial Interest

7. This Petition is on behalf of Sierra Club and its nearly 38,000 members who live and purchase electric utility service in Florida—more than 17,500 of whom purchase from Florida Power & Light. Ex. A at 1 (Declaration of Susannah Randolph ¶ 4) (hereinafter Randolph Decl.); Ex. A at 5 (Declaration of Huda Fashho ¶ 6) (hereinafter Fashho Decl.).¹

¹ With one exception, this Motion relies on affidavits prepared to support Sierra Club’s standing to challenge this project in the earlier docket. The Sierra Club and its members’ interest in

8. Sierra Club is a national non-profit organization. Randolph Decl. ¶ 3; Fashho Decl ¶ 2.
9. Sierra Club and its Florida members are dedicated to reducing pollution through public health and environmental safeguards, and through the rapid transition away from fossil fuel burning electricity generation. Randolph Decl. ¶ 5. To achieve this transition, Sierra Club has championed policies to remove barriers to energy efficiency, solar power, wind power, and storage. Randolph Decl. ¶ 5. These are low-cost low-risk alternatives to generating electricity from fossil fuels. Sierra Club advocates for such policies and regulations nationwide, including in Florida, by intervening, submitting comments, providing testimony, and presenting experts in state and federal energy-related proceedings; participating in public hearings and workshops; speaking to students, civic organizations, and other stakeholders; and holding seminars and symposia – all to ensure that low cost clean energy solutions reach every community. Randolph Decl. ¶ 5.
10. This docket may culminate in the issuance of a ‘determination of need,’ facilitating Florida Power and Light’s construction of a massive, ratepayer-funded fossil fuel generating unit at FPL’s existing site in Dania Beach. If a determination of need is granted, the Project will further commit Florida to high-cost, fossil fuel burning electricity generation and, by “defer[ing] the need for future capacity additions,” stifle the adoption of clean energy solutions and defer concomitant cost, health and environmental benefits. See FPL Petition, In re: Florida Power & Light Company’s Petition for Determination of Need for Dania Beach Clean Energy Center Unit No. 7, Docket No. 20170225-EI, Document No. 09001-2017 at 2 (Oct. 20, 2017) (hereinafter FPL Petition).

intervening in this matter draw on the same set of unchanged facts that motivated our attempt to intervene in that matter.

11. The Commission has jurisdiction to address the concerns of Sierra Club and its members in this docket. In considering the need for the Project, “the commission shall take into account the need for electric system reliability and integrity, the need for adequate electricity at a reasonable cost, the need for fuel diversity and supply reliability, whether the proposed plant is the most cost-effective alternative available, and whether renewable energy sources and technologies, as well as conservation measures, are utilized to the extent reasonably available. The commission shall also expressly consider the conservation measures taken by or reasonably available to the applicant or its members which might mitigate the need for the proposed plant and other matters within its jurisdiction which it deems relevant.” Fla. Stat. Ann. § 403.519(3) (2017).
12. Sierra Club meets the administrative and associational standing requirements to intervene in this docket.
13. First, Sierra Club meets the three-prong associational standing test established in Florida Home Builders v. Department of Labor and Employment Security, 412 So.2d 351 (Fla. 1982), which was later extended to hearings involving disputed issues of material fact under Section 120.57(1), F.S. in Farmworker Rights Organization, Inc. v. Department of health and Rehabilitation Services, 417 So.2d 753 (Fla. Dist. Ct. App. 1982). Under this test, an association has standing to litigate on its members’ behalf when: (a) the association demonstrates that the Commission’s decision may substantially affect a substantial number of its members; (b) the subject matter of the proceeding is within the association’s general scope of interest and activity; and (c) the relief requested is of a type appropriate for the association to receive on its members’ behalf. Florida Home Builders, 412 So.2d at 353.

14. Sierra Club meets the associational standing test's first prong because more than 17,500 of its members live in areas served by FPL, Fashho Decl ¶ 6, and would be directly impacted by a recovery in their rates of the estimated \$65,364,000,000 in costs of constructing, and later operating, the Project. FPL Petition, Exhibit SRS-4 at 1. Many of these members rely on fixed incomes and therefore are extremely sensitive to increased and variable rates. Ex. A at 9 (Declaration of Douglas Campbell ¶ 6)(hereinafter Campbell Decl.); Ex. A at 13 (Declaration of Cristy Costello ¶ 8)(hereinafter Costello Decl.); Ex. A at 33 (Declaration of Darryl L. Rutz ¶ 7)(hereinafter Rutz Decl.); Ex. A at 37 (Declaration of Geraldine Swormstedt ¶ 7)(hereinafter Swormstedt Decl.). Accordingly, to keep rates from rising, Sierra Club members are keenly interested in assuring selection of the lowest cost and risk option for generation needs, and that investments are not made in new generation until such generation is actually needed. Sierra Club members are also worried about continued overreliance on gas, and the financial risks arising from volatile gas prices on their rates. See Ex. A at 17 (Declaration of Kristine Cunningham ¶ 8)(hereinafter Cunningham Decl.); Ex. A at 23 (Declaration of Robert Stephen Mahoney ¶ 11)(hereinafter Mahoney Decl.); Ex. A at 29 (Declaration of Stanley F. Pannaman ¶ 6)(hereinafter Pannaman Decl.); Rutz Decl. ¶ 7; Ex. A at 49, 50 (Declaration of Winston Mark Walters ¶¶ 8, 10)(hereinafter Walters Decl.). Sierra Club's ratepaying members also have a keen interest in assuring that the Commission has adequate information to fully assess whether the Project is the most cost effective low risk alternative available, and whether renewable energy sources and technologies, as well as conservation measures, are utilized to the extent reasonably available. See Campbell Decl. ¶¶ 6-9; Costello Decl. ¶ 6; Cunningham Decl. ¶ 7; Ex. A at 25 (Declaration of Leslie Maloney ¶ 8)(hereinafter Maloney Decl.); Pannaman Decl. ¶ 10;

- Swormstedt ¶ 9; Ex. A at 31 (Declaration of James D. Teas ¶ 13)(hereinafter Teas Decl.); Ex. A at 45 (Declaration of Diana Umpierre ¶ 6)(hereinafter Umpierre Decl.).
15. Finally, Sierra Club members live and recreate near Dania beach. Campbell Decl. ¶ 5; Costello Decl. ¶ 12; Mahoney Decl. ¶ 6; Rutz Decl. ¶¶ 9, 10; Umpierre Decl. ¶ 5; Walters Decl. ¶ 7. Their health and enjoyment of that setting will be impacted by a Commission decision to certify the need for the Project or failure to adequately consider “renewable energy sources and technologies, as well as conservation measures” Fla. Stat. Ann. § 403.519 (2017). See Costello Decl. ¶ 12; Mahoney Decl. ¶ 10; Rutz Decl. ¶¶ 9,10; Walters Decl. ¶¶ 7-9.
 16. Sierra Club meets the associational standing test’s second prong as well because agency decisions that lock Floridians into expensive, dirty fuel sources fall within Sierra Club’s general scope of interest and activity. See Randolph Decl. ¶¶ 5-9. Sierra Club and its members advocate for a rapid transition away from fossil fuel power plants and towards low-cost, low-risk, clean energy alternatives. Id. In doing so, Sierra Club works to ensure that its members have access to electricity that is cheaper, cleaner, and less damaging to human health and the environment than the electricity produced by fossil fuels, including gas. Id., ¶¶ 7 - 10. The Sierra Club therefore has a longstanding interest in ensuring that the Commission “take into account . . . renewable energy sources and technologies, as well as conservation measures” in evaluating the Project. Fla. Stat. Ann. § 403.519.
 17. Sierra Club meets the associational standing test’s third prong because it seeks to prevent a finding of need for a project that its members oppose, and is not seeking money damages or otherwise inappropriate relief. See Fla. Home Builders, 412 So. 2d at 354 (Fla. 1982).

18. Additionally, Sierra Club meets the two-prong test for administrative standing established in Agrico Chemical Company v. Department of Environmental Regulation, 406 So.2d 478 (Fla. Dist. Ct. App. 1981) *rehearing denied*, 415 So.2d 1359 (Fla. 1982). This test requires (a) an injury in fact of sufficient immediacy to entitle the petitioner to a hearing under Section 120.57 F.S.; and (b) substantial injury of a type or nature that the proceeding is designed to protect.
19. Sierra Club meets the Agrico test's first prong because the cost of constructing and operating the Project, along with a return on investment, will be borne by FPL's customers including over 17,500 Sierra Club members. Randolph Decl. ¶ 4. Sierra Club members do not want to have to pay for an expensive gas plant when it may not be needed now in the first place, and when cheaper alternatives exist. See Mahoney Decl. ¶¶ 7, 11; Pannaman Decl. ¶ 10; Rutz Decl. ¶ 7; Teas Decl. ¶ 13; Walters Decl. ¶ 10. At the same time, Sierra Club members will be harmed if adequate consideration is not given to the need for increased fuel diversity. If built, the Project will increase Sierra Club members' exposure to gas price volatility. FPL already relies heavily on gas. Its customers have lost billions of dollars on hedging programs that try to manage price volatility in gas markets. Building a new gas plant like the Project would only exacerbate the "economic stressors" of price volatility for Sierra Club members in FPL's service area, especially those on fixed incomes. See Ex. A at 11 Campbell Decl. ¶ 6; Costello Decl. ¶ 8; Rutz Decl. ¶ 7; see also *supra* ¶¶ 14, 15.
20. Furthermore, constructing and operating the Project would injure Sierra Club members' interests in a safe and sustainable environment. Sierra Club members are seriously concerned about continued reliance on dirty fuels that worsen air pollution, climate change,

sea-level rise, and the associated economic and health-related harms. See Randolph Decl. ¶¶ 5-9; Campbell Decl. ¶¶ 7-9; Costello Decl. ¶¶ 10-13; Cunningham Decl. ¶¶ 8-9; Mahoney Decl. ¶¶ 7, 9-10, 12; Maloney Decl. ¶¶ 9-12; Pannaman Decl. ¶¶ 6-10; Rutz Decl. ¶¶ 9, 10; Teas Decl. ¶¶ 6-9, 12, 13; Umpierre Decl. ¶¶ 5-9; Walters Decl. ¶¶ 8, 9, 11. Thus, constructing and operating the Project injures Sierra Club and its members' interest in the transition away from dirty fuels to clean energy alternatives.

21. Sierra Club meets the second prong because this proceeding is designed to protect all ratepayers, including Sierra Club members, from unneeded costs. Moreover, the Commission is to “take into account . . . renewable energy sources and technologies, as well as conservation measures” in evaluating the Project. Fla. Stat. Ann. § 403.519. Given that this proceeding presumptively concludes the determination of need, it is one of the few forums available to the Sierra Club and its members to redress and prevent the harms of unneeded gas generation projects, and for Sierra Club and its members to advocate for cheaper and cleaner alternatives to a new gas plant.
22. Sierra Club’s intervention will not unnecessarily broaden the issues or unduly delay this proceeding because Sierra Club’s interest is directly related to the subjects addressed in the proceedings, and because Sierra Club and its members will “take the case as they find it.” Rule 25-22.039 F.A.C.
23. Statement of disputed facts. Sierra Club anticipates that disputed issues of material fact include but are not limited to:
 - a. The alleged bases for need presented in FPL’s petition, including the need to build the Project on the schedule FPL is proposing, whether the alleged specific need

for the gas plant arises from the need for electric system reliability and integrity or the need for adequate electricity at a reasonable cost;

- b. Whether FPL's proposed Project is the most cost-effective alternative available;
- c. Whether the need for fuel diversity and supply reliability are best served by means other than a new gas plant;
- d. Whether renewable energy sources and technologies, as well as conservation measures, are utilized to the extent reasonably available; and
- e. Whether such conservation measures could mitigate the need for the Project, either in whole or in part.

24. Statement of ultimate facts. Sierra Club reserves the right to identify ultimate facts after completing discovery in this proceeding.

25. Statement required by Rule 28-106.204(3), F.A.C.. Sierra Club conferred with all parties of record and its undersigned representative is authorized to represent that OPC has no objection to Sierra Club's intervention. FPL states that it takes no position on this motion, pending review of Sierra Club's filing.

26. WHEREFORE, Sierra Club respectfully requests that the Commission enter an order granting it leave to intervene in the above captioned docket, and further requests parties to provide the undersigned with all notices, pleadings, testimony, discovery, and other communications filed in the docket.

RESPECTFULLY SUBMITTED this 2nd day of November, 2017

/s/ Julie Kaplan

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was served electronically on this 2nd day of November, 2017 on:

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EXHIBIT "B"

DECLARATION OF SUSANNAH RANDOLPH

I, Susannah Randolph, declare as follows:

1. My name is Susannah Randolph, and I am of legal age and competent to give this declaration. All information herein is based on my own personal knowledge unless otherwise indicated.

2. I am a Sierra Club employee. I serve as the Florida Senior Campaign Representative for Sierra Club's Beyond Coal Campaign. I am responsible for ensuring that all of Sierra Club's work in Florida successfully executes the campaign's goals. I regularly interact with dozens of employees and volunteers as part of my job responsibilities throughout multiple states.

3. Sierra Club is a national non-profit membership organization.

4. Sierra Club has nearly 38,000 members in Florida, including more than 17,500 who live in Florida Power and Light Company's service area.

5. Sierra Club and its Florida members are dedicated to reducing pollution through equitable public health and environmental safeguards, and through the rapid transition away from fossil fuel-burning generation. To achieve this transition, Sierra Club has championed policies and regulations to remove barriers to energy efficiency, solar power, wind power, storage and batteries as low cost, low risk alternatives to fossil fuel burning generation. Sierra Club advocates for such policies and regulations nationwide, including in Florida, by intervening, submitting comments, providing testimony, and presenting experts in state and federal energy-related proceedings; participating in public hearings and workshops; speaking to students, civic organizations, and other stakeholders; and holding seminars and symposia—all to ensure that clean energy solutions reach all communities.

6. Consistent with the goals and work described above, Sierra Club represents its members' interest in avoiding unneeded, costly fossil fuel-burning generation, and securing the wide-ranging benefits of clean energy. Regarding FPL's proposal to build new fossil fuel-burning generation to replace existing generation at its Lauderdale power plant in Dania Beach, Florida, Sierra Club and its members' interests include avoiding needless new generation, ensuring cost effective generation selection, and keeping electricity rates low. Further, Sierra Club and its members' interest includes ensuring that the public has the best information available to compare the costs of FPL's proposed fossil fuel-burning generation and the costs of other energy sources or conservation to meet the same need FPL intends that generation to meet. Likewise, Sierra Club and its members have an interest in informed, transparent and fair decision-making on their behalf. These interests extend to understanding the specific need that the new gas plant is intended to serve.

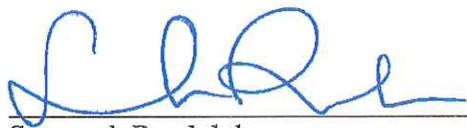
7. Sierra Club further represents its and its members' interest in promoting the transition from fossil fuels to clean energy sources, thereby avoiding the environmental and health costs of burning more fossil fuels. It is well documented, for example, that long term exposure to smog pollution—formed by burning fossil fuels—is linked to chronic asthma and other respiratory and lung diseases, reproductive and developmental harm, negative cardiac impacts, and even premature death.

8. Acid rain, visibility impairment, and climate change are among the other costly problems exacerbated by burning fossil fuels. Indeed, Sierra Club has produced information regarding those public health and environmental costs to this Commission and in venues nationwide, thus substantiating its significant interest in minimizing those costs, which impose a

burden above and beyond the immediate rate impact of FPL's proposed fossil fuel-burning generation.

9. Sierra Club also represents its members' interest in improving or else preserving the value of their electric service. The decisions the Commission will make regarding FPL's proposed new generation may substantially affect the value of FPL's service to Sierra Club members as such decisions will potentially bind FPL's selection of service offerings going forward, including how much of that service will rely on burning fossil fuels versus other options. Sierra Club also represents its members' interest in ensuring that any new generation is both necessary to provide electric service to FPL customers, including Sierra Club members, and the lowest priced option. The members will value FPL service less if it includes plants that are not actually needed to provide them service, or not the least costly compared to other options. Second, clean, low cost, low risk alternatives to the gas-burning plant are available, and Sierra Club members strongly prefer that FPL pursue those alternatives instead. Yet, the vast sum FPL would spend on new generation at the Lauderdale power plant, including construction as well as operation and maintenance costs, will tie up capital and reduce the amount available to invest in clean energy alternatives. This hinders the alternatives from coming online now and in the future. Therefore, Sierra Club represents its members' interest in this case to improve or else preserve the value of their electric service by advocating against new fossil fuel-burning generation and for the preferred alternatives.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed in Orlando, Florida on 10/31, 2017.



Susannah Randolph

STATE OF FLORIDA

COUNTY OF ORLANDO

BEFORE ME, the undersigned authority, personally appeared
Susannah Randolph who is personally known or produced
Drivers license as identification, and who was sworn and says that
the foregoing averments are true.

Sworn to and subscribed before this 31 day of October, 2017.

Virginia McCue
Notary Public



EXHIBIT "C"

Cox, Will P.

From: Julie Kaplan <julie.kaplan@sierraclub.org>
Sent: Thursday, November 02, 2017 8:18 AM
To: ken.hoffman@fpl.com; Cox, Will P.; Christensen, Patty;
james.stansbury@deo.myflorida.com; Charles Murphy; SCO@dep.state.fl.us
Cc: Diana Csank; Michael Lenoff; Susannah Randolph
Subject: Service of Intervention Papers in Docket No. 20170225
Attachments: Sierra Club Intervention Motion with Exhibit 11.2.17.pdf

CAUTION - EXTERNAL EMAIL

Good morning,

Attached for service please find Sierra Club's Petition to Intervene in the above captioned docket, including supporting Exhibit and certificate of service.

Best,

Julie

--

Julie Kaplan
Senior Attorney
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50 F Street NW, Eighth Floor
Washington, D.C 20001
Phone: [202 548 4592](tel:2025484592)
Email: Julie.Kaplan@sierraclub.org

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Cox, Will P.

From: Julie Kaplan <julie.kaplan@sierraclub.org>
Sent: Thursday, November 02, 2017 12:38 PM
To: ken.hoffman@fpl.com; Cox, Will P.; Christensen, Patty;
james.stansbury@deo.myflorida.com; Charles Murphy; SCO@dep.state.fl.us
Cc: Diana Csank; Michael Lenoff; Susannah Randolph
Subject: Re: Service of Intervention Papers in Docket No. 20170225
Attachments: Sierra Club Intervention Motion with Exhibit 11.2.17 (1).pdf

CAUTION - EXTERNAL EMAIL

Good Afternoon,
We just refiled the document below, to correct an error in my signature block. No other changes were made to the document. Regards,
Julie

On Thu, Nov 2, 2017 at 8:17 AM, Julie Kaplan <julie.kaplan@sierraclub.org> wrote:
Good morning,

Attached for service please find Sierra Club's Petition to Intervene in the above captioned docket, including supporting Exhibit and certificate of service.

Best,

Julie

--

Julie Kaplan
Senior Attorney
Environmental Law Program
Sierra Club
50 F Street NW, Eighth Floor
Washington, D.C 20001
Phone: [202 548 4592](tel:2025484592)
Email: Julie.Kaplan@sierraclub.org

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--

Julie Kaplan
Senior Attorney

Environmental Law Program
Sierra Club
50 F Street NW, Eighth Floor
Washington, D.C 20001
Phone: 202 548 4592
Email: Julie.Kaplan@sierraclub.org

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Cox, Will P.

From: Julie Kaplan <julie.kaplan@sierraclub.org>
Sent: Tuesday, November 07, 2017 4:20 PM
To: Kenneth A. Hoffman; Christensen, Patty; Cox, Will P.
Cc: Charles Murphy; Susannah Randolph; Michael Lenoff; Diana Csank
Subject: Service of Discovery in Docket No. 20170225
Attachments: Sierra Club Interrogatories_11.7.17.pdf; Sierra Club Notice of Document Request and Interrogatories_11.7.17.pdf; Sierra Club Request for Production_11.7.17.pdf

CAUTION - EXTERNAL EMAIL

Counsel,
Attached please find for service Sierra Club's First Document Production Request (Nos. 1-60), First Set of Interrogatories (Nos. 1-20), certificates of service, and the Notice of Filing of these same documents.

Regards,

Julie

--

Julie Kaplan
Senior Attorney
Environmental Law Program
Sierra Club
50 F Street NW, Eighth Floor
Washington, D.C 20001
Phone: 202 548 4592
Email: Julie.Kaplan@sierraclub.org

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Cox, Will P.

From: Julie Kaplan <julie.kaplan@sierraclub.org>
Sent: Friday, November 10, 2017 4:26 PM
To: Kenneth A. Hoffman; Christensen, Patty; Cox, Will P.
Cc: Charles Murphy; Susannah Randolph; Diana Csank; Michael Lenoff
Subject: Service of Discovery in Docket No. 20170225
Attachments: Sierra Club 1st Set RF Admission- Nov 10.pdf; Sierra Club Interrogatories - Nov 10.pdf; Sierra Club Request for Production - Nov 10.pdf; Sierra Club Notice of Document Request, Interrogatories, and RFAs - Nov 10 (1).pdf

CAUTION - EXTERNAL EMAIL

Counsel,

Attached please find for service Sierra Club's Second Document Production Request (Nos. 61-63), Second Set of Interrogatories (Nos. 21-22), and First Set of Requests for Admission (Nos. 1-24), corresponding certificates of service, and the Notice of Filing of these same documents.

Regards,

Julie

Julie Kaplan
Senior Attorney
Environmental Law Program
Sierra Club
50 F Street NW, Eighth Floor
Washington, D.C 20001
Phone: [202 548 4592](tel:2025484592)
Email: Julie.Kaplan@sierraclub.org

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Cox, Will P.

From: Julie Kaplan <julie.kaplan@sierraclub.org>
Sent: Thursday, November 16, 2017 4:16 PM
To: Cox, Will P.; Kenneth A. Hoffman; Christensen, Patty
Cc: Charles Murphy; Susannah Randolph; Michael Lenoff
Subject: Service of Discovery in Docket No. 20170225
Attachments: Sierra Club Notice of Document Request and Interrogatories - 11.16.17.pdf; Sierra Club Third Request for Production - 11.16.17.pdf; Sierra Club Third Set of Interrogatories - 11.16.17.pdf

CAUTION - EXTERNAL EMAIL

Counsel,
Attached please find for service Sierra Club's Third Request for Production Request (Nos. 64-66), Third Set of Interrogatories (Nos. 23-31), certificates of service, and the Notice of Filing of these same documents.

Regards,

Julie

--

Julie Kaplan
Senior Attorney
Environmental Law Program
Sierra Club
50 F Street NW, Eighth Floor
Washington, D.C 20001
Phone: 202 548 4592
Email: Julie.Kaplan@sierraclub.org

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Cox, Will P.

From: Michael Lenoff <michael.lenoff@sierraclub.org>
Sent: Tuesday, November 21, 2017 3:26 PM
To: ken.hoffman@fpl.com; Cox, Will P.; christensen.patty@leg.state.fl.us;
cmurphy@psc.state.fl.us
Cc: Julie Kaplan; Susannah Randolph; Diana Csank
Subject: Service of Notice of Taking Deposition Duces Tecum in Docket No. 20170225
Attachments: Sierra Club's Notice of Taking Deposition Duces Tecum of Dr. Steven R. Sim.pdf

CAUTION - EXTERNAL EMAIL

Counsel,

Attached please find for service Sierra Club's Notice of Taking Deposition Duces Tecum.

Regards,
Michael

Michael Lenoff
Legal Fellow
Sierra Club
50 F Street, NW, Eighth Floor
Washington, DC 20001
[202-650-6065](tel:202-650-6065)
michael.lenoff@sierraclub.org

--
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Cox, Will P.

From: Michael Lenoff <michael.lenoff@sierraclub.org>
Sent: Friday, December 01, 2017 5:28 PM
To: ken.hoffman@fpl.com; Cox, Will P.; christensen.patty@leg.state.fl.us;
cmurphy@psc.state.fl.us; Diana Csank; Julie Kaplan; Susannah Randolph
Subject: Service of Notice of Taking Telephonic Deposition Duces Tecum in Docket No.
20170225
Attachments: Notice of Telephonic Deposition of Dr Steven R Sim.pdf

CAUTION - EXTERNAL EMAIL

Counsel,

Attached please find for service Sierra Club's Notice of Taking Telephonic Deposition Duces Tecum.

Regards,
Michael

--

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EXHIBIT "D"

ATTACHMENT 4

(Responsive to Interrogatory No. 7)



Fwd: Heads up

From: Susannah Randolph <susannah.randolph@sierraclub.org>
Date: Mon, Nov 6, 2017 at 12:16 PM
Subject: Heads up
To: <eric.silagy@fpl.com>

Dear Mr. Silagy:

We haven't had the opportunity to meet. I am the Senior Campaign Representative for the Sierra Club's Beyond Coal Campaign in Florida. The Beyond Coal Campaign is the Club's signature effort to move beyond fossil fuels in the electric sector. I manage our advocacy and litigation around power plants and clean energy in Florida.

As a courtesy, I am giving you a heads up that you may receive a high volume of messages to this email address voicing opposition to FPL's plans to rebuild and expand the Dania Beach gas plant.

As you know, we have intervened in the PSC proceedings related to the Dania Beach facility, but the feeling of urgency among members of the community is growing, as well.

We are always open to talking with you or members of your executive team about this or other issues. Recently, someone from your team reached out to our Florida Chapter Director to set up a meeting with your Vice President of Environmental Services, Michael Sole. Unfortunately, that meeting was subsequently cancelled, and we received no further communication from FPL.

I still wanted to give you a heads up regarding the possible volume of comments that you may receive in this account and let you know that we are always open to dialogue.

Sincerely,
Susannah Randolph

--
Susannah Randolph
Senior Campaign Representative, Florida
Sierra Club Beyond Coal Campaign
[100 West Lucerne Circle](#)
[Orlando, FL 32801](#)
[\(407\) 259-1872](tel:(407)259-1872)

Learn more about our new Department of Equity, Inclusion and Justice! Visit sierraclub.org/equity for more on the **new name** (shorthand "Equity"), our newly adopted **vision, shared values, theory of change** and **a report** on our progress so far.

--

Online advocacy pages where members of the public can learn about the issue and submit comments to Gov. Rick Scott and FP&L CEO Rick Silagy

Action page #1: <https://sierra.secure.force.com/actions/National?actionId=AR0091067>

Action page #2: sc.org/nofrackFL

Comment letter signed by action takers:

"I urge you to stop plans to build the FPL Dania Beach fracked gas plant and demand investments in clean, renewable energy.

As we know, fracked gas contributes greatly to climate change and drives the development of intense and terrifying storms such as Hurricanes Irma and Maria. The devastation from these storms will be a new reality we'll face more frequently if we don't do everything possible to curb climate change.

FPL has the know-how to deploy much more solar and other clean energy solutions to keep rates down and grow the local economy, without sacrificing our environment or exposing ratepayers to fuel price volatility.

I urge you to put Florida on the path to a more affordable, cleaner, safer energy future for our state. Doing so will be a win-win-win for your customers, shareholders, and the local economy, which of course relies on a healthy environment no less than on healthy job growth.

Let's live up to our name as The Sunshine State and become a national leader in clean energy; ending our reliance on fossil fuels such as gas and coal, both of which compound the climate change impacts that South Florida is already facing with intensifying hurricanes, rising tides, flooding, and coastal changes."

It's time to move Florida into the 21st century and move away from fossil fuels to proven, affordable clean energy solutions.

I urge you to take the first step by ending plans for a new, fracked gas plant in Dania Beach and instead invest in clean, renewable energy."

Complete list of commenters to above letter. All signed the letter, some added personal messages:

<https://docs.google.com/spreadsheets/d/1xhp1hJO4u6L74gpJ0Gnc43gBIWlhdAvqmpZppRKKR0o/edit#gid=798120293>

Facebook Ads on Sierra Club's page, link to actual post so comments can be viewed:

<https://www.facebook.com/6204742571/posts/10155324989537572>



Sierra Club

November 7 at 10:58am · 🌐

Florida utilities' obsession with fracked gas is bad deal for customers like you AND the planet! If FPL gets its way with a new mega fracked gas plant, we'll be left paying with higher bills and suffering from stronger, climate change fueled hurricanes.

Speak out now → <http://sc.org/2hiW1Bh>



Stop fracking with Florida

Stop the next fracked gas plant in South Florida!

SIERRACLUB.ORG

Sign Up

<https://www.facebook.com/6204742571/posts/10155324990397572>



Sierra Club

November 7 at 10:58am · 🌐

Florida utilities' obsession with fracked gas is bad deal for customers like you AND the planet! If FPL gets its way with a new mega fracked gas plant, we'll be left paying with higher bills and suffering from stronger, climate change fueled hurricanes.

Speak out now → <http://sc.org/2yCwMS6>



Stop fracking with Florida

Stop the next fracked gas plant in South Florida!

SIERRACLUB.ORG

[Sign Up](#)

<https://www.facebook.com/6204742571/posts/10155324991342572>



Sierra Club

November 7 at 10:59am · 🌐



South Florida can't afford another hurricane season like this one. But that's exactly what's coming unless utilities like FPL stop building mega frack gas plants and start investing in clean energy.

Speak out now → <http://sc.org/2AoFY9Z>



FL needs to #actonclimate

Tell Gov. Scott FL needs climate, energy progress!

SIERRACLUB.ORG

Sign Up

<https://www.facebook.com/6204742571/posts/10155324990872572>



Sierra Club

November 7 at 10:59am · 🌐

...

Utilities want more fracked gas plants in Florida. But there are better alternatives like home grown, safe and affordable renewable energy and energy efficiency that are better for customers like you AND the planet.

Speak out now → <http://sc.org/2Afl2jl>



What's FL's energy future?

Tell Gov. Scott and FPL: FL wants cleaner, cheaper, safer energy!

SIERRACLUB.ORG

Sign Up

<https://www.facebook.com/6204742571/posts/10155324990132572>



Sierra Club

November 7 at 10:58am · 🌐



South Florida can't afford another hurricane season like this one. But that's exactly what's coming unless utilities like FPL stop building mega frack gas plants and start investing in clean energy.

Speak out now → <http://sc.org/2ApNHnU>



FL needs to #actonclimate

Tell Gov. Scott FL needs climate, energy progress!

SIERRACLUB.ORG

Sign Up

<https://www.facebook.com/6204742571/posts/10155324990622572>



Sierra Club

November 7 at 10:59am · 🌐

Utilities want more fracked gas plants in Florida. But there are better alternatives like home grown, safe and affordable renewable energy and energy efficiency that are better for customers like you AND the planet.

Speak out now → <http://sc.org/2hi4IMq>



What's FL's energy future?

Tell Gov. Scott and FPL: FL wants cleaner, cheaper, safer energy!

SIERRACLUB.ORG

Sign Up

Email sent to Sierra Club supporters:

Subject: Florida can't afford more fracked gas or hurricanes

EXPLORE. ENJOY. PROTECT.



Hello Florida_Friend,

Florida Power & Light (FPL) is placing Florida on a collision course with climate change.

Tell FPL and Governor Scott we demand clean, affordable, safe energy for Florida!

Instead of investing in clean, renewable energy and harnessing the power of the sun, FPL is building a huge, fracked gas plant in South Florida -- **fueling more climate change and terrifying hurricanes like Irma!**

The worst part is, FPL wants special treatment to push their fracked gas plant through without proving that it's needed in the first place. **They want to bend the rules and skip considering safer, more cost effective options like solar power.** We've seen this move before, utilities across the country trying to use their monopoly power to prop up doing business as usual.

FPL is too dependent on gas, leaving customers like you vulnerable to unstable fracked gas prices volatility and worsening climate change. Plain and simple: FPL is creating the perfect storm of higher utility bills and powerful hurricanes that will harm Floridians for decades.

Enough is enough. Sign the petition now, don't let FPL lock Florida in to a dangerous reliance on fracked gas.

Soon, we will all be paying a high premium for FPL's addiction to gas. Right now we are fighting FPL's proposed gas plant in court, and **we need your help to send a strong message** to FPL and Governor Rick Scott to stop this dangerous addiction to fracked gas.

For our future,

Susannah Randolph
Senior Campaign Representative, Florida
Sierra Club Beyond Coal Campaign

Tell Gov. Scott: No more fracked gas in Florida!



Send a Message!

EXHIBIT "E"

Donaldson, Kevin

From: Julie Kaplan <julie.kaplan@sierraclub.org>
Sent: Monday, December 18, 2017 5:04 PM
To: Cox, Will P.
Cc: Diana Csank (diana.csank@sierraclub.org); Michael Lenoff (michael.lenoff@sierraclub.org); Donaldson, Kevin
Subject: Re: FW: Depositions for Dania Beach Need Determination docket

Hi Will,

Sierra Club's position that deposing Susannah in addition to Nacy would be unduly burdensome, unreasonable, and redundant remains, and in fact, was reinforced by last week's deposition of Nacy.

Best,

Julie

On Mon, Dec 18, 2017 at 2:43 PM, Cox, Will P. <Will.P.Cox@fpl.com> wrote:

Hi Julie

Reminder that we need your response on this today. Please advise.

Thanks in advance for your attention.

Will

From: Cox, Will P.
Sent: Monday, December 18, 2017 8:36 AM
To: 'Julie Kaplan'
Cc: Diana Csank (diana.csank@sierraclub.org); Michael Lenoff (michael.lenoff@sierraclub.org); Donaldson, Kevin
Subject: RE: FW: Depositions for Dania Beach Need Determination docket

Hi Julie,

As I discussed with Diana after the deposition of Nachy last week, FPL remains interested in deposing Susannah Randolph. In addition to the petition to intervene affidavit and discovery response documents attributable to Susannah in the docket to date, Nachy also pointed to her as the person who is either the best person with Sierra Club or most likely person to have information on several of the questions we asked of him.

We would like to know her availability between January 2 – 5. We are available to have the deposition at a court reporter's office in the city location that would be most convenient to her and you.

Please let me know today so we can schedule and notice the deposition.

Thanks,

Will

William P. Cox

Senior Attorney

Florida Power & Light Company

(561) 304-5662 - phone

(561) 281-9542 – mobile



From: Julie Kaplan [<mailto:julie.kaplan@sierraclub.org>]

Sent: Monday, December 11, 2017 3:25 PM

To: Cox, Will P.

Cc: Diana Csank (diana.csank@sierraclub.org); Michael Lenoff (michael.lenoff@sierraclub.org); Donaldson, Kevin

Subject: Re: FW: Depositions for Dania Beach Need Determination docket

Hi Will,

Thanks for taking the time to chat with me regarding FPL's interest in deposing Susannah as well as Nachy. As explained in my earlier email, and on the phone, our position remains that deposing Susannah in addition to Nachy would be burdensome, unreasonable, and redundant. Nonetheless, as we discussed, once FPL has deposed Nachy on Thursday, if you still are interested in deposing Susannah, we can discuss that.

Best,

Julie

On Fri, Dec 8, 2017 at 5:02 PM, Cox, Will P. <Will.P.Cox@fpl.com> wrote:

Hi Julie:

We are renewing our request to depose the senior representative for the Sierra Club's Beyond Coal campaign in Florida, Susannah Randolph. She appears to be Sierra Club's Florida spokesperson on issues relevant to this docket (See <https://www.sierraclub.org/press-releases/2017/11/sierra-club-launches-campaign-asking-fpl-cancel-plans-burn-more-gas-dania>),

and has been copied on most if not all of Sierra Club's filings in this docket. We believe she has information relevant to Sierra Club's positions in this docket. This is further underscored by the discovery response Sierra Club provided to FPL today, with a letter from Ms. Randolph to FPL President Eric Silagy. (see attached pdf document). I note in particular that in the letter Ms. Randolph states: "I manage our advocacy and litigation around power plants and clean energy in Florida."

Florida Rules of Civil Procedure 1.310(a) supports FPL's right to take Ms. Randolph's deposition as a part of this docket.

Please let us know her availability for a deposition between now and December 21, keeping in mind the two dates we already have scheduled depositions for (December 14 and 20) would not be available. I would appreciate it if you could let me know her availability and preferred city location by close of business on Monday, December 11, so we can schedule and notice the deposition. We would schedule the deposition at a court reporter's office in the preferred city location.

Thank you for your attention.

Best,

Will

From: Julie Kaplan [<mailto:julie.kaplan@sierraclub.org>]
Sent: Wednesday, December 06, 2017 1:02 PM
To: Cox, Will P.
Cc: Diana Csank; Michael Lenoff
Subject: Re: Depositions for Dania Beach Need Determination docket

CAUTION - EXTERNAL EMAIL

Hi Will,

In response to your request, Sierra Club's corporate representative for the purposes of this proceeding is Nachy Kanfer, Deputy Director of Sierra Club's Beyond Coal Campaign in the East. As Nachy is Susannah's immediate supervisor and has overseen Sierra Club's work pertaining to this proceeding, it would be redundant, overly burdensome, and simply unnecessary to depose him and Susannah Randolph as well. Nachy will be available in Cincinnati on December 14, and Ezra Hausman in Boston, on December 19 or 20 (he has other commitments next week). Sierra Club has no other expert filing testimony than Ezra.

Julie

On Tue, Dec 5, 2017 at 11:02 AM, Cox, Will P. <Will.P.Cox@fpl.com> wrote:

Hi Julie

FPL would like to schedule depositions of Sierra Club representatives as a part of the ongoing need determination proceeding.

We would like to schedule depositions for (1) your expert consultant Ezra Hausman and any other expert witness that will be filing testimony in this docket and (2) the senior representative for the Sierra Club's Beyond Coal campaign in Florida, Susannah Randolph.

We would also like to schedule a deposition of a corporate representative regarding the subject matter and positions of Sierra Club in the need determination docket, pursuant to Rule 1.310(b)(6) of the Florida Rules of Civil Procedure. If Ms. Randolph would serve as a corporate representative for Sierra Club in this matter, then we would not need this deposition for a separate corporate representative. Also, we would need to schedule an additional deposition for any (each) additional expert witnesses that will be filing testimony on behalf of Sierra Club, assuming Mr. Hausman is filing testimony and there are additional testifying experts beyond him.

We would like to know availability and preferred locations for the depositions so we can arrange and send out notices to the parties. The dates we would offer for the depositions are December 13, 14, and 15. We are flexible on location for the depositions. For Mr. Hausman, we would be open to the Boston area where he is based, in DC where you are based, or in Florida where we are based. We would use a court reporter's office for the deposition. Likewise, we are flexible for the best location for Ms. Randolph. We are happy to have it where she is based (Orlando, best I can tell), DC, or here in Palm Beach County, with the deposition at a court reporter's office. Again, the corporate representative you designate, assuming it is not Ms. Randolph, would also be at a location that you select, at a court reporter's office that we confirm.

Please let me know by close of business tomorrow if possible (12/6/17) availability and preferred locations for the deponents so we can confirm with the parties and arrange for the depositions.

Thanks,

Will

William P. Cox

Senior Attorney

Florida Power & Light Company

[\(561\) 304-5662](tel:(561)304-5662) - phone

[\(561\) 281-9542](tel:(561)281-9542) – mobile



--

Julie Kaplan

Senior Attorney

Environmental Law Program

Sierra Club

[50 F Street NW](#), Eighth Floor

Washington, D.C 20001

Phone: [202 548 4592](tel:2025484592)

Email: Julie.Kaplan@sierraclub.org

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--

Julie Kaplan

Senior Attorney

Environmental Law Program

Sierra Club

[50 F Street NW](#), Eighth Floor

Washington, D.C 20001

Phone: [202 548 4592](tel:2025484592)

Email: Julie.Kaplan@sierraclub.org

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--

Julie Kaplan

Senior Attorney

Environmental Law Program

Sierra Club

[50 F Street NW](#), Eighth Floor

Washington, D.C 20001

Phone: 202 548 4592

Email: Julie.Kaplan@sierraclub.org

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EXHIBIT "F"

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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

* * *

IN RE: Petition for
determination of need
for Dania Beach Clean Energy Center Unit 7,
Docket No. 20170225-EI
by Florida Power
& Light Company.,

* * *

Deposition of NAHALIEL KANFER, Witness
herein, called by the Florida Power & Light
Company for cross-examination pursuant to the
Rules of Civil Procedure, taken before me, Vicky
L. Marcon, a Notary Public within and for the
State of Ohio, at the offices of Mike Mobley
Reporting, 312 Walnut Street, Cincinnati, Ohio, on
Thursday, December 14, 2017, at 9:00 a.m.

* * *

1 identification.)

2 Q. Could you take a look at Exhibit 4
3 and let me know if you recognize it?

4 A. I do.

5 Q. What is it?

6 A. It's my affidavit.

7 Q. And is that your signature on the
8 affidavit?

9 A. It is.

10 Q. And what you're attesting to and
11 swearing to in this is the responses to Florida
12 Power and Light Company's first set of
13 interrogatories, numbers one through 32, a
14 request for production of documents, number
15 one, in Docket 20170225. Correct?

16 A. Correct.

17 Q. And those are the responses that
18 are set forth in the binder we've marked as
19 Exhibit 3 today. Correct?

20 A. Correct.

21 Q. All right. So, with respect to
22 response number 12, with respect to the motion,
23 what information were you relying upon to come
24 to the conclusion that a motion in this precise
25 language was made in the past by Sierra Club's

1 Broward Group's Ex-Com?

2 A. Ms. Randolph told me, Ms. Csank
3 told me and Ms. Kaplan told me.

4 Q. Did you do any independent
5 investigation other than that?

6 A. No.

7 Q. How would Susannah Randolph know
8 anything about this motion?

9 MS. CSANK: Objection. Calls for
10 speculation.

11 Q. If you know.

12 A. My understanding is Ms. Randolph
13 wrote the motion.

14 Q. So, if we wanted a copy of the
15 motion or to ask any questions to somebody
16 about the motion, would she be the best person
17 to ask?

18 A. I think you have a copy of the
19 motion.

20 Q. I do?

21 A. It's right here.

22 Q. So, when Sierra Club Broward Group
23 Ex-Com met on this, they had a copy of response
24 to interrogatory number 12?

25 A. Oh. That's not what I meant. I

1 meant to say that this is a verbatim copy of
2 the motion that you have. I don't think there
3 is an embossed, framed resolution hanging on
4 someone's door that we can provide to you.

5 Q. Okay. Well, putting aside whether
6 it's embossed or framed, is there a written
7 motion?

8 A. I don't know.

9 Q. Okay. So the best person to ask
10 about whether or not there is a written motion
11 would be Susannah Randolph and not you.
12 Correct?

13 A. I actually think Ms. Randolph, Ms.
14 Csank and Ms. Kaplan could all, yeah.

15 Q. Okay. Well, we're a little
16 hamstrung at deposing the attorneys. So
17 Susannah Randolph would be the best person to
18 ask about that question?

19 A. I don't think -- you certainly
20 can, yeah. There's not much more that you
21 don't know at this point.

22 Q. Well, we don't know if it's in
23 writing or not. Right? She might know the
24 answer to that if you don't.

25 A. Well, it's not -- I mean, it has

1 been written down electronically, I can tell
2 you that much. I don't know if there is a
3 physical copy.

4 Q. Oh. Okay. I'm sorry if I was
5 confusing to you in constraining the medium of
6 the writing to a piece of paper versus
7 digitally. Have you seen the motion digitally?

8 A. My understanding is that Ms.
9 Randolph drafted the motion probably
10 electronically and worked with the Broward
11 Group to approve it.

12 Q. Okay. So you say probably
13 electronically. Do you know one way or
14 another?

15 A. I don't.

16 Q. Okay. She would and you wouldn't.
17 Right?

18 A. Probably. Yeah.

19 Q. And since she wrote it, it
20 wouldn't be a probably. She would know.
21 Right?

22 A. She would probably know.

23 Q. Your qualification of the word
24 probably is confusing me. If she wrote the
25 motion, how would she not know?

1 MS. CSANK: Objection. Calls for
2 speculation.

3 THE WITNESS: My understanding is
4 that Ms. Randolph drafted the motion and worked
5 with the Broward Group to pass it.

6 Q. All right. And that knowledge is
7 based upon what Susannah Randolph told you?

8 A. As well as Ms. Csank and Ms.
9 Kaplan.

10 Q. Well, I don't want to get into
11 attorney/client privileged communication, so
12 let's exclude those. As far as
13 nonattorney/client privileged communication,
14 the only person who wasn't a lawyer who told
15 you about this was Susannah Randolph. Right?

16 A. Correct.

17 Q. How long has she worked for the
18 Sierra Club?

19 A. A little less than one year.

20 Q. Who hired her?

21 A. I did.

22 Q. Okay. While on Susannah Randolph,
23 we're going to jump to Attachment 4 of the
24 interrogatory responses. So, looking at
25 attachment four to the interrogatory responses,

1 I don't think I said we didn't have a position.
2 I think I said that our strong suspicion was
3 that after reviewing the evidence we would
4 learn or verify that the gas plant was
5 unnecessary.

6 Q. But getting back to your demand
7 that we put a temporal limitation on the
8 questions, we're talking about the time that
9 the petition to intervene was filed. And I'll
10 give you a chance to change your answer, edit
11 it or revise it if you want. Did the Sierra
12 Club have a position at the time it filed the
13 petition to intervene as to whether or not
14 there was a need for the Dania Beach Clean
15 Energy Center?

16 A. So what I can point you to is
17 what's written in our petition to intervene --

18 Q. I got that. I'm trying to get
19 your position.

20 A. -- as well as --

21 MS. CSANK: Objection as to relevance
22 and ambiguity.

23 MR. MARCIL: Relevance objections are
24 preserved for the record. You don't have to make
25 those.

1 THE WITNESS: And I think we agreed
2 we wouldn't interrupt each other. Right?

3 Q. Yeah. Sorry about the
4 interruption.

5 A. You interrupted me as I was
6 attempting to answer your question.

7 Q. Okay. Don't get quarrelsome.
8 Move on.

9 A. So, as I was beginning to say, I
10 would point you to the information not only in
11 our petition to intervene but also in Ms.
12 Randolph's declaration, and that is probably
13 the best I can do to try to define for you what
14 the Sierra Club's position was at the time of
15 filing.

16 Q. Okay. So I understand. So, if I
17 wanted to learn Sierra Club's position as to
18 intervention, you're not the best person to
19 speak to. I need to either speak to Susannah
20 Randolph or your lawyers?

21 A. That is not what I said.

22 Q. Well, you told me those were the
23 two things you could point me to as to the
24 position of Sierra Club. Did I get that wrong?

25 A. No. You got that right. So I'm

1 A. Yes.

2 Q. Okay. And it's also -- and have
3 you read anything that Florida Power and Light
4 has submitted in the docket in this case?

5 A. Not to my knowledge.

6 Q. Is there anybody other than, that
7 you're aware of at the Sierra Club nationally,
8 other than the lawyers, who have read what
9 Florida Power and Light has submitted in this
10 case?

11 A. No.

12 Q. All right. Let's go back to the
13 petition to intervene. And just so the record
14 is clear, you said before that there was an
15 affidavit of Susannah Randolph that you thought
16 was supportive of Sierra Club's position. I
17 just wanted to point out for the record that
18 was at Exhibit A. Is that what you're
19 referring to?

20 A. Yes.

21 Q. Okay. And back to page three of
22 the petition to intervene, that sentence you
23 pointed me to on the third paragraph of page
24 six. And I'll read it for the record again, in
25 case somebody reading this transcript picks

1 calling on those municipalities to use 100
2 percent renewable energy.

3 Q. Are those binding resolutions?

4 A. I think in some cases.

5 Q. Any binding resolutions been
6 passed in the State of Florida by any
7 municipality?

8 A. Probably.

9 MS. CSANK: Objection to the extent
10 that calls for a legal conclusion.

11 Q. When you say probably, who do you
12 think?

13 A. I'm sorry?

14 Q. Can you give me one municipality
15 in the State of Florida that has passed a
16 binding resolution under the Ready For 100
17 Campaign?

18 MS. CSANK: Objection. Vague and
19 calls for a legal conclusion.

20 THE WITNESS: I don't follow it that
21 closely. So I've heard, for example, that there
22 are multiple municipalities in Broward County. I
23 know that St. Petersburg has passed a resolution.
24 I know that Orlando has made some sort of
25 commitment. I am not -- I haven't reviewed the

1 language of those resolutions and I'm not sure
2 which are or are not binding and in what way.

3 Q. Would Susannah Randolph be a
4 better person to ask about that?

5 A. You could ask Ms. Randolph. You
6 could also ask our Ready For 100 team.

7 Q. Who heads up the Ready For 100
8 team?

9 A. Kassie Rohrbach.

10 Q. And where is she located?

11 A. Oakland.

12 Q. Oakland, California. Right?

13 A. Yes.

14 Q. Is Sierra Club working with any
15 renewable energy companies on the development
16 of renewable energy projects?

17 MS. CSANK: Objection. Vague,
18 ambiguous.

19 THE WITNESS: Is Sierra Club working
20 with any renewable energy companies on the
21 development of renewable energy projects. Yes.

22 Q. Who?

23 A. For example -- so there are a lot
24 of ways in which that can play out. For
25 example, there is a proposed set of direct