

MEMORANDUM

May 14, 2003

TO: KAY FLYNN/CCA
SANDY MOSES/CCA
MARY DISKERUD/GCL-APP
WANDA TERRELL/GCL-APP

FPSC, CLK - CORRESPONDENCE
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FROM: DAVID E. SMITH, ATTORNEY SUPERVISOR, GENERAL
COUNSEL/APPEALS, RULES & MEDIATION

RE: AMY GUTMAN, JEFF LESERRA, JOSE GUTMAN, DONNA TENNANT,
AND TERESA BADILLO v. LILA A. JABER, et al. (DOCKET NO. 010908-
EI); SUPREME COURT OF FLORIDA.

Please note that the above appeal has been assigned to Marlene Stern.
The Notice of Administrative Appeal was filed on May 12, 2003. The case schedule is as follows:

| <u>Date</u> | <u>Item</u> |
|------------------------|--|
| From day of filing: | |
| <u>06/17/03</u> | Draft of Index of Record from CCA to Appeals Attorney. |
| <u>07/01/03</u> | Index of Record served on Parties. |
| <u>07/11/03</u> | Copy of Record to Appeals. |
| <u>07/21/03</u> | Appellant's Initial Brief Due. |
| <u>08/05/03</u> | Draft Commission Answer Brief Due. |
| <u>08/10/03</u> | Commission's Answer Brief Due. |
| <u>08/30/03</u> | Appellant's Reply Brief Due. |

STATE OF FLORIDA

COMMISSIONERS:
LILA A. JABER, CHAIRMAN
J. TERRY DEASON
BRAULIO L. BAEZ
RUDOLPH "RUDY" BRADLEY
CHARLES M. DAVIDSON



DIVISION OF THE COMMISSION CLERK &
ADMINISTRATIVE SERVICES
BLANCA S. BAYÓ
DIRECTOR
(850) 413-6770 (CLERK)
(850) 413-6330 (ADMIN)

Public Service Commission

May 12, 2003

Thomas D. Hall, Clerk
Supreme Court of Florida
Supreme Court Building
Tallahassee, Florida 32301

**Re: Amy Gutman, Jeff Leserra, Jose Gutman, Donna Tennant, and Teresa Badillo
vs. Lila A. Jaber, Chairman, et al. (Docket No. 010908-EI)**

Dear Mr. Hall:

Enclosed is a certified copy of a Notice of Appeal, filed in this office on behalf of Amy Gutman, Jeff Leserra, Jose Gutman, Donna Tennant, and Teresa Badillo, filed May 12, 2003. A copy of Order No. PSC-03-0494-FOF-EI, the order on appeal, is attached to the notice as an exhibit.

It is our understanding the index of record is to be served on the parties to the proceeding by July 1, 2003, or 50 days after the notice of appeal was first filed with your office.

Sincerely,

A handwritten signature in black ink, appearing to read "Kay Flynn".

Kay Flynn, Chief
Bureau of Records and Hearing Services

KF:mhl
Enclosure

cc: Jose Gutman, Pro Se
David E. Smith, Esquire
John T. Butler, Esquire

ORIGINAL

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

IN RE: Complaint against Florida Power & Light Company
regarding placement of power poles and transmission lines
by Amy & Jose Gutman, Teresa Badillo, and Jeff Lessera.

Docket No. 010908-EI
Order No. PSC-03-0494-FOF_EI
Issued: April 15, 2003

COMMISSION
CLERK

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AMY GUTMAN, JEFF LESERRA)
JOSE GUTMAN, DONNA TENNANT,)
TERESA BADILLO)
Pro Se, Appellants)
v.)

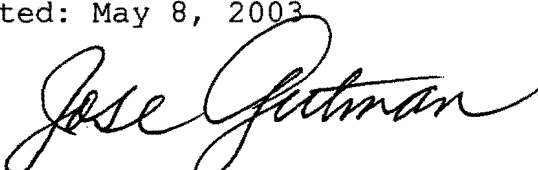
NOTICE OF
APPEAL


FLORIDA PUBLIC SERVICE COMMISSION)
Appellee)
_____)

NOTICE IS GIVEN that Amy Gutman, Jeff Leserra, Jose Gutman, Donna Tennant, Teresa Badillo, Appellants, appeal to the Supreme Court of Florida, the above identified Order of the Public Service Commission rendered on the 15th day of April 2003.

The nature of the Order appealed is a final agency action order concluding: (1.) That the Petitioners motion for reconsideration be dismissed and (2) That the Petitioner's motion for reconsideration of Order No. PSC-02-1516-FOF-EI be denied. Attached is a copy of the Public Service Commission Order that was provided to Petitioners by the office of Blanca S. Bayo', Director Division of the Commission Clerk and Administrative Services, representing a conformed copy showing Blanca S. Bayo's signature as required by Rule 9.110, Florida Rules Appellate Procedure.

Dated: May 8, 2003


Pro Se Qualified Representative for Appellants
Jose Gutman
12643 Little Palm Lane
Boca Raton, FL 33428
(561) 470-9829 Tel
(561) 213-2241 Fax

A TRUE COPY
ATTEST 
Chief, Bureau of Records and
Hearing Services

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Certificate of Service

I HEREBY CERTIFY that a true and correct copy of the notice of appeal has been mailed to the Clerk for the Florida Supreme Court and to the Clerk for the Public Service Commission, this 9th day of May, 2003.

By: 
Jose Gutman, Qualified Representative

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Complaint against Florida Power & Light Company regarding placement of power poles and transmission lines by Amy & Jose Gutman, Teresa Badillo, and Jeff Lessera.

DOCKET NO. 010908-EI
ORDER NO. PSC-03-0494-FOF-EI
ISSUED: April 15, 2003

The following Commissioners participated in the disposition of this matter:

LILA A. JABER, Chairman
J. TERRY DEASON
BRAULIO L. BAEZ
RUDOLPH "RUDY" BRADLEY

ORDER DENYING MOTION FOR RECONSIDERATION

BY THE COMMISSION:

I. CASE BACKGROUND

Three separate informal complaints were filed with our Division of Consumer Affairs against Florida Power & Light Company ("FPL") regarding the placement of a particular FPL transmission line. The named complainants were Jose and Amy Gutman (Request No. 366172E), Teresa Badillo (Request No. 344754E), and Jeff Leserra (Request No. 367987E). The line in question is a 230kV transmission line that runs 4.75 miles in length along the south bank of the South Florida Water Management District's ("SFWMD") Hillsboro Canal and the north shoulder of Lox Road in northwest Broward County and southwest Palm Beach County, Florida. The line, known as the "Parkland Line," connects FPL's newly-constructed Parkland substation to FPL's existing transmission system. The land permit authorizing the line was granted by the Governing Board of the SFWMD at its July 2000 meeting, and construction of the line began in late October 2000.

In June 2001, our staff conducted two mediation sessions with FPL and the complainants to explore the possibility of settlement,

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but no resolution of the complaints was reached. Our staff made additional attempts to informally resolve this matter through agreement among the parties, but those attempts were not successful. By letter dated April 5, 2002, our staff provided the parties with its proposed resolution of these complaints, pursuant to Rule 25-22.032, Florida Administrative Code. The proposed resolution concluded that the transmission line in question is in compliance with the National Electrical Safety Code ("NESC"), which this Commission enforces, and that the remaining concerns involve subjects not within our jurisdiction and thus should be dismissed. By letter dated April 24, 2002, FPL concurred with the proposed resolution and requested that a recommendation concerning these complaints be submitted for our consideration. On May 2, 2002, the complainants filed their response to the proposed resolution, requesting that they be heard before us on this matter.

Because two informal mediation sessions with the parties had already been conducted, an informal conference was found unnecessary. Accordingly, we heard from the complainants and FPL on this matter at our May 21, 2002, Agenda Conference. By Order No. PSC-02-0788-PAA-EI, issued June 10, 2002, in this docket (the "June 10 Order"), we made the following findings: (1) the power poles and other facilities associated with FPL's Parkland transmission line are constructed in compliance with the NESC; and (2) we do not have the authority to grant the relief requested by the complainants, i.e., to require FPL to relocate its Parkland Line, based on the concerns raised by the complainants other than concerns that the Parkland Line does not comply with the NESC. The first finding was made as proposed agency action in Part II of the Order, and the second finding was made as final agency action in Part III of the Order. (Part I of the Order consisted only of the case background.)

On July 1, 2002, Jose Gutman, Suzanne Terwilliger, Jeff Leserra, Donna Tennant, and Teresa Badillo (collectively, "petitioners") filed a petition for a hearing before an Administrative Law Judge ("ALJ") on both the proposed agency action and final agency action taken in our June 10 Order. On July 17, 2002, FPL filed a motion to dismiss the petitioners' request for hearing, and the petitioners filed a response to FPL's motion to dismiss on July 31, 2002.

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By Order No. PSC-02-1516-FOF-EI, issued November 5, 2002 (the "November 5 Order"), we granted FPL's motion to dismiss the petitioners' request for hearing. First, we granted FPL's motion to dismiss, without prejudice, the petitioners' request for hearing on Part II of the June 10 Order, finding that the petitioners did not specifically plead how the Parkland Line is not in compliance with the NESC, nor how such non-compliance with the NESC entitles the petitioners to the relief they seek, i.e., having the line relocated. Petitioners were afforded the opportunity to amend their request for hearing to make such specific allegations. Second, we granted FPL's motion to dismiss, with prejudice, the petitioners' request for hearing on Part III of the June 10 Order. We noted that Part III of the Order was issued as final agency action, and the Order did not provide an opportunity to request a hearing on Part III because the law provides no right to request a hearing on final agency action.

On November 18, 2002, the petitioners filed a motion for reconsideration of the November 5 Order. FPL filed its response to the petitioners' motion for reconsideration on November 27, 2002. This Order addresses the petitioners' motion for reconsideration. We have jurisdiction over this matter pursuant to the provisions of Chapter 366, Florida Statutes, including Sections 366.04 and 366.05, Florida Statutes.

II. MOTION FOR RECONSIDERATION

The applicable standard of review for a motion for reconsideration is whether the motion identifies some point of fact or law that was overlooked or not considered by the decision-maker in rendering its order. Diamond Cab Co. V. King, 146 So. 2d 889 (Fla. 1962). The mere fact that a party disagrees with the order is not a valid basis for reconsideration. Id. Further, reweighing of the evidence is not a sufficient basis for reconsideration. State v. Green, 104 So. 2d 817 (Fla. 1st DCA 1958).

The petitioners ask this Commission to reconsider our Order No. PSC-1516-FOF-EI (the "November 5 Order") in its entirety. We address the petitioners' motion in two parts: (1) with respect to our decision to grant FPL's motion to dismiss, with prejudice, the petitioners' request for hearing on Part III of the June 10 Order, which was issued as final agency action; and (2) with respect to

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our decision to grant FPL's motion to dismiss, without prejudice, the petitioners' request for hearing on Part II of the June 10 Order, which was issued as proposed agency action.

A. Reconsideration of Dismissal of Request for Hearing on Part III of Order No. PSC-02-0788-PAA-EI

Petitioners' Arguments

In their motion, the petitioners contend that their request for hearing on Part III of the June 10 Order should have been considered not only as a request for hearing but also as a timely request for reconsideration of Part III of the Order. Although not stated directly in their motion, the petitioners appear to suggest that this Commission erred by doing otherwise. The petitioners assert that the June 10 Order "was complex with a number of time frames for response that were specified at the end of the Order" and did not clearly indicate that parties seeking reconsideration of the Order would not have an additional five days, beyond the 15 day reconsideration period set forth in the Order, "as permitted under Rule 28-106.103, [Florida Administrative Code]." The petitioners further argue that the Uniform Rules of Procedure allow an additional five days, beyond the 15 day reconsideration period set forth in the June 10 Order, for the petitioners to seek reconsideration of the Order. Noting their status as pro se litigants, the petitioners ask us to apply principles of excusable neglect and equitable tolling and allow the petitioners "the opportunity to be heard and to seek further proceedings" in response to Part III of the Order. The petitioners go on to argue that, contrary to our findings in Part III of the June 10 Order, this Commission does have jurisdiction to require FPL to relocate its power lines as necessary to promote the public welfare.

FPL's Arguments

In its response, FPL notes that the primary rationale stated in our November 5 Order for dismissing the petitioners' request for hearing on Part III of the June 10 Order is that the Order did not provide an opportunity to request a hearing on Part III because the law provides no right to request a hearing on final agency action. FPL states that the petitioners' motion for reconsideration entirely ignores this primary rationale, instead focusing on a

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tangential finding in the November 5 Order that even if the petitioners' request for hearing is considered as a request for reconsideration, it must be denied as untimely. FPL contends that nothing in the petitioners' request for hearing could conceivably qualify as a motion for reconsideration of Part III of the June 10 Order, and, therefore, we need not perform an analysis of the timeliness of such a motion. In any event, FPL asserts that we correctly construed the Uniform Rules of Procedure as not permitting an additional five days for service of a motion for reconsideration. Further, FPL asserts that the petitioners' motion for reconsideration provides no valid justification for applying the doctrines of excusable neglect or equitable tolling such that petitioners should have been given additional time to file a motion for reconsideration of the June 10 Order.

Analysis

Our November 5 Order states, in pertinent part:

We grant FPL's motion to dismiss, with prejudice, the petitioners' request for hearing on Part III of Order No. PSC-02-0788-PAA-EI. Part III of the Order was issued as final agency action. The "Notice of Further Proceedings and Judicial Review" set forth at the end of the Order, as required by Section 120.569(1), Florida Statutes, clearly sets forth the rights of the parties to appeal or seek reconsideration of Part III of the Order and the deadlines for doing both. The Order does not provide an opportunity to request a hearing on Part III because the law provides no right to request a hearing on final agency action.

The petitioners appear to suggest that their filing is appropriate because it was made within the time allowed for seeking reconsideration of Part III of the Order. The petitioners are incorrect. Even if the petitioners' filing is considered as a request for reconsideration of Part III, it must be denied as untimely. The "Notice of Further Proceedings and Judicial Review" set forth at the end of the Order clearly states that any request for reconsideration of Part III must be filed within 15 days of the issuance of the Order. Contrary to the

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petitioners suggestion, an additional five days is not permitted under Rule 28-106.103, Florida Administrative Code. That rule clearly states that no additional time shall be added when the period of time begins pursuant to the type of notice described in Rule 28-106.111, Florida Administrative Code, e.g., the "Notice of Further Proceedings and Judicial Review" set forth at the end of Order No. PSC-02-0788-PAA-EI. Further, the courts have not permitted extensions of time to request reconsideration of final agency action. City of Hollywood v. Public Employees Relations Commission, 432 So. 2d 79 (Fla. 4th DCA 1983).

Clearly, we dismissed the petitioners' request for hearing on Part III of the June 10 Order because neither the Order nor the law provided the right to request a hearing on final agency action. As FPL notes, the petitioners entirely ignore this rationale in their motion for reconsideration. Hence, the motion for reconsideration fails to identify any point of fact or law that this Commission overlooked or failed to consider in reaching this dispositive finding.

The petitioners' request for hearing expressly sought a hearing on both the proposed agency action and final agency action portions of our June 10 Order. Among the disputed issues set forth in the petitioners' request for hearing were the matters addressed as final agency action in Part III of the June 10 Order. Further, as FPL points out in its response to the petitioners' motion for reconsideration, the petitioners' request for hearing followed the format of a petition to initiate proceedings and ended by requesting relief in the form of "the right to appear before an Administrative Law Judge, and have the ALJ determine . . . if the PSC does indeed have a right to simply dismiss [the concerns dismissed in Part III of the June 10 Order]." Thus, we agree with FPL that nothing in the petitioners' request for hearing could conceivably qualify as a motion for reconsideration on Part III of our June 10 Order.

In their July 31, 2002, response to FPL's motion to dismiss their request for hearing, the petitioners suggested that their request for hearing was timely filed within the 15 day time period set forth in the June 10 Order. Still, the petitioners did not

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submit that they had intended their request for hearing on Part III of the June 10 Order as a motion for reconsideration. In the interest of being thorough, our order addressed a hypothetical situation in which the petitioners had intended their request for hearing as a motion for reconsideration. However, because none of the petitioners' pleadings had given any indication that their request for hearing on Part III of the June 10 Order was intended as a motion for reconsideration, the petitioners cannot now assert that this Commission erred by not treating their request for hearing as a motion for reconsideration also. Accordingly, an analysis of the timeliness of a motion for reconsideration would be merely an academic exercise.

In conclusion, we deny the petitioners' motion for reconsideration of our decision to dismiss the petitioners' request for hearing on Part III of the June 10 Order.

B. Reconsideration of Dismissal of Request for Hearing on Part II of Order No. PSC-02-0788-PAA-EI

Petitioners' Arguments

In their motion, the petitioners ask this Commission to reconsider that portion of the November 5 Order which dismisses the petitioners' request for hearing on Part II of the June 10 Order without prejudice to amend. Further, the petitioners ask that our engineers verify whether the Parkland Line complies with NESC requirements.

First, the petitioners assert that our engineers "have done only a minimal visual overview of the transmission line site and without any review of FPL engineering documents, and without any independent professional engineering analysis." The petitioners contend that they can only rely on FPL's general statements that the Parkland Line complies with the NESC without any supporting documentation from FPL or "externally verifiable engineering reports." Second, the petitioners assert that this is the first time that FPL has used this type of power pole on a parallel run so close to a canal, and that FPL's lack of experience with such an installation raises a safety concern. Third, the petitioners note that FPL applied for a modification to their SFWMD permit to change the design of the transmission line project to make it compliant

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with FPL's internal standards. The petitioners assert that FPL's application for a permit modification calls into question whether the Parkland Line has been in compliance with the NESC all along. Fourth, the petitioners suggest that the steps FPL has taken to comply with its internal standards may be related to poor soil conditions on the canal bank, then question whether other problems could be present along the canal bank.

FPL's Arguments

In its response, FPL asserts that the points raised by the petitioners do not warrant reconsideration of Part II of the June 10 Order. FPL asserts that the petitioners first point, as set forth above, is "just plain wrong." FPL notes that on September 6, 2002, a Commission engineer completed a safety evaluation of the Parkland Line based upon an inspection of each pole and concluded that there was not a "single trace" of a possible NESC violation. As to the petitioners second point, FPL asserts that the petitioners' motion for reconsideration makes no reference to anything in the NESC that relates to placement of poles near canals or to a requirement for prior experience installing such poles. As to the petitioners' third point, FPL notes that the modification to its SFWMD permit was obtained to modify the Parkland Line to meet FPL's internal standards, not NESC requirements. FPL asserts that by taking these steps, the Parkland Line is presumably safer now rather than less safe. FPL asserts that the petitioners' fourth point is no more than speculation and cannot be the type of specific allegation of non-compliance with the NESC contemplated by the November 5 Order.

Analysis

Our November 5 Order states, in pertinent part:

We further grant FPL's motion to dismiss, without prejudice, the petitioners' request for hearing on Part II of Order No. PSC-02-0788-PAA-EI. We tend to agree with FPL's suggestion that the appropriate remedy for any deficiency found in the line is correction of that deficiency, rather than relocation of the line. The petitioners have not specifically pled how the Parkland Line is not in compliance with the NESC, nor have they

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pled how such non-compliance with the NESC entitles the petitioners to the relief they seek, i.e., having the line relocated. Accordingly, the petitioners' request for hearing as to Part II of the Order is dismissed without prejudice to the petitioners' right to amend their request for hearing to specifically allege how the Parkland Line is not in compliance with the NESC and why such non-compliance requires relocation of the line.

The petitioners' motion for reconsideration fails to identify any point of fact or law that was overlooked or not considered in rendering this portion of the November 5 Order. The petitioners' first and third points, as set forth above, were raised by the petitioners in their request for hearing and were considered in rendering the November 5 Order. The petitioners' second and fourth points, as set forth above, introduce speculation of safety concerns because this is the first time FPL has installed a transmission line along a canal and because poor soil conditions may be present. Neither of these points undercuts the rationale for the relevant portion of the November 5 Order cited above because neither point, had it been presented prior to the November 5 Order, specifically alleges non-compliance with the NESC or how such non-compliance entitles the petitioners to the relief of having the Parkland Line moved. Our jurisdiction over the safety of transmission facilities is limited to enforcement of the NESC's requirements. Thus, it would be pointless to move toward a formal hearing without an allegation of an NESC violation within our jurisdiction to remedy.

In conclusion, we deny the petitioners' motion for reconsideration of the Commission's decision to dismiss, without prejudice, the petitioners' request for hearing on Part II of the June 10 Order.

III. OTHER PROCEDURAL MATTERS

Our November 5 Order provided the petitioners the opportunity to file, within 20 days of the issuance of that Order, an amended request for hearing on Part II of the June 10 Order. The November 5 Order went on to state that if an amended request for hearing was not filed within that time, this docket would be administratively closed.

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Citing Rule 25-22.060(1)(c), Florida Administrative Code, FPL argues that the petitioners no longer have the option of filing an amended request for hearing on Part II of the June 10 Order. Rule 25-22.060(1)(c), Florida Administrative Code, provides that "[a] final order shall not be deemed rendered for the purpose of judicial review until the Commission disposes of any motion and cross motion for reconsideration of that order, but this provision does not serve automatically to stay the effectiveness of any such final order." Thus, FPL argues that the petitioners motion for reconsideration did not automatically stay the effectiveness of the November 5 Order, in particular the 20 day time period provided for filing an amended request for hearing.

We find that the petitioners reasonably believed that their motion for reconsideration would toll the 20 day time period for filing an amended request for hearing. The portion of the November 5 Order which provided the petitioners the opportunity to file an amended petition was issued as procedural rather than final agency action. Thus, the rule cited by FPL, which relates to final orders, does not appear to apply in this instance. Further, if the petitioners' motion for reconsideration were resolved in their favor, filing an amended petition would have been unnecessary.

Therefore, we order that this docket remain open to allow the petitioners the opportunity to amend their request for hearing on Part II of the June 10 Order to specifically allege how the Parkland Line is not in compliance with the NESC and why such non-compliance requires relocation of the line. If an amended petition meeting these requirements is not filed within 20 days of our April 1, 2003, vote on this matter, this docket shall be administratively closed.

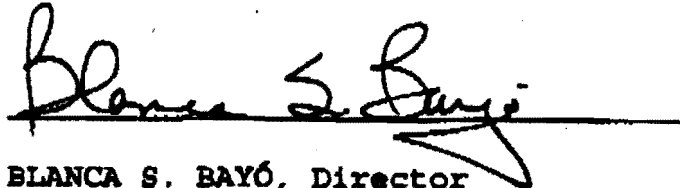
Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that the petitioners' motion for reconsideration of Order No. PSC-02-1516-FOF-EI, issued November 5, 2002, is denied. It is further

ORDERED that if the petitioners do not file an amended petition meeting the requirements of Order No. PSC-02-1516-FOF-EI within 20 days of our April 1, 2003, vote on this matter, this docket shall be administratively closed.

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By ORDER of the Florida Public Service Commission this 15th
day of April, 2003.


BLANCA S. BAYÓ, Director
Division of the Commission Clerk
and Administrative Services

(S E A L)

WCK

NOTICE OF JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

Any party adversely affected by the Commission's final action in this matter may request judicial review by the Florida Supreme Court in the case of an electric, gas or telephone utility or the First District Court of Appeal in the case of a water or wastewater utility by filing a notice of appeal with the Director, Division of the Commission Clerk and Administrative Services, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, and filing a copy of the notice of appeal and the filing fee with the appropriate court. This filing must be completed within thirty (30) days after the issuance of this order, pursuant to Rule 9.110, Florida Rules of Appellate Procedure. The notice of appeal must be in the form specified in Rule 9.900(a), Florida Rules of Appellate Procedure.

COMMISSIONERS:
LILA A. JABER, CHAIRMAN
J. TERRY DEASON
BRAULIO L. BAEZ
RUDOLPH "RUDY" BRADLEY
CHARLES M. DAVIDSON

STATE OF FLORIDA



DIVISION OF THE COMMISSION CLERK &
ADMINISTRATIVE SERVICES
BLANCA S. BAYÓ
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(850) 413-6770 (CLERK)
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Public Service Commission

June 24, 2003

Mr. Jose Gutman
12643 Little Palm Lane
Boca Raton, Florida 33428

**Re: Supreme Court Case No. SC03-932 - Amy Gutman, Jeff Leserra, Jose Gutman,
Donna Tennant, and Teresa Badillo vs. Lila A. Jaber, Chairman, et al.
(FPSC Docket No. 010908-EI)**

Dear Mr. Gutman:

Enclosed is an index to the above-referenced docket on appeal. Please look the index over and let me know if you have any questions concerning the contents of the record.

It is our understanding that the record is due to be filed with the Court on or before August 30, 2003.

Sincerely,

A handwritten signature in black ink that reads "Kay Flynn".

Kay Flynn, Chief
Bureau of Records and Hearing Services

KF:mhl

cc: John T. Butler, Esquire
Marlene Stern, Esquire

I N D E X

Amy Gutman, Jeff Leserra, Jose Gutman, Donna Tennant,
and Teresa Badillo

vs.

Lila A. Jaber, Chairman, et al.
FPSC Docket No. 010908-EI
Supreme Court Case No. SC03-932

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| Order PSC-03-0494-FOF-EI denying motion for reconsideration, issued April 15, 2003 | 204 |
| Memorandum dated April 22, 2003 from Commission's Office of the General Counsel to Division of the Commission Clerk and Administrative Services advising of administrative closing of docket, filed April 23, 2003 | 215 |
| Notice of appeal, on behalf of Jose Gutman o/b/o Amy Gutman, Jeff Leserra, Jose Gutman, Donna Tennant, and Teresa Badillo, filed May 12, 2003 | 216 |
| Supreme Court of Florida acknowledgment of new case, Case No. SC03-932, filed June 10, 2003 | 229 |
| Certificate of Director, Division of the Commission Clerk and Administrative Services | 230 |

COMMISSIONERS:
LILA A. JABER, CHAIRMAN
J. TERRY DEASON
BRAULIO L. BAEZ
RUDOLPH "RUDY" BRADLEY
CHARLES M. DAVIDSON

STATE OF FLORIDA



DIVISION OF THE COMMISSION CLERK &
ADMINISTRATIVE SERVICES
BLANCA S. BAYÓ
DIRECTOR
(850) 413-6770 (CLERK)
(850) 413-6330 (ADMIN)

Public Service Commission

August 26, 2003

Thomas D. Hall, Clerk
Supreme Court of Florida
Supreme Court Building
Tallahassee, Florida 32301

Re: Supreme Court Case No. SC03-932 - Amy Gutman, Jeff Leserra, Jose Gutman, Donna Tennant, and Teresa Badillo vs. Lila A. Jaber, Chairman, et al. (Docket No. 010908-EI)

Dear Mr. Hall:

The record in the above-referenced case, consisting of one binder, is forwarded for filing in the Court. A copy of the final index is enclosed for your use. Please initial and date the copy of this letter to indicate receipt.

Do not hesitate to call me at 413-6744 if you have any questions about the contents of this record.

Sincerely,

A handwritten signature in cursive script that reads "Kay Flynn".

Kay Flynn, Chief
Bureau of Records and Hearing Services

KF:mhl
Enclosure

cc: Jose Gutman, Pro Se
Marlene Stern, Esquire
John T. Butler, Esquire

I N D E X

Amy Gutman, Jeff Leserra, Jose Gutman, Donna Tennant,
and Teresa Badillo

vs.

Lila A. Jaber, Chairman, et al.
FPSC Docket No. 010908-EI
Supreme Court Case No. SC03-932

VOLUME 1

| | |
|---|-----|
| Progress Docket | 1 |
| Request to establish docket, by Florida Public Service Commission ("Commission") staff, filed June 26, 2001 | 4 |
| Florida Power & Light Company's ("FPL") supplemental comments on Gutman, Badillo and Leserra complaints, filed July 9, 2001 | 6 |
| Letter dated April 25, 2002 from John T. Butler to Commission responding to staff's April 5, 2002 letter proposing to dismiss complaint, filed April 25, 2002 | 40 |
| Letter dated May 1, 2002 from Amy Gutman o/b/o homeowners to Commission responding to staff's April 5, 2002 letter proposing to dismiss complaint, and requesting a hearing be held, filed May 2, 2002 | 42 |
| Memorandum from Commission's Office of the General Counsel, Divisions of Auditing and Safety, and Consumer Affairs to Division of the Commission Clerk and Administrative Services, filed May 9, 2002 | 71 |
| PAA Order PSC-02-0788-PAA-EI finding transmission facilities in compliance with National Electrical Safety Code and final order dismissing complaints on all other grounds for lack of jurisdiction, issued June 10, 2002 | 82 |
| Petition in response to Order No. PSC-02-0788-PAA-EI, on behalf of Suzanne Terwilliger, Amy Gutman, Jose Gutman, Donna Tennant, Jeff Leserra, and Teresa Badillo, filed July 1, 2002 | 94 |
| FPL's motion to dismiss complainants' petition for a hearing on Order No. PSC-02-0788-PAA-EI, filed July 17, 2002 | 141 |
| Motion for extension of time to file response to FPL's motion to dismiss, filed by Donna Tennant o/b/o petitioners, filed July 29, 2002 | 146 |

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| Petitioners' response to FPL's motion to dismiss complainants' petition for a hearing on Order No. PSC-02-0788-PAA-EI, filed July 31, 2002 | 148 |
| Memorandum from Commission's Office of the General Counsel and Divisions of Auditing and Safety and Consumer Affairs to Division of the Commission Clerk and Administrative Services, filed August 22, 2002 | 152 |
| Memorandum dated October 2, 2002 from Commission's Division of Auditing and Safety to Division of the Commission Clerk and Administrative Services with attached October 1, 2002 letter from Bill Walker, FPL, regarding staff's September 6, 2002 safety evaluation report, filed October 2, 2002 | 161 |
| Order PSC-02-1516-FOF-EI granting motion to dismiss, issued November 5, 2002 | 165 |
| Petitioners' motion for reconsideration of Order No. PSC-02-1516-FOF-EI, filed November 18, 2002 | 173 |
| FPL's response to petitioners' motion for reconsideration of Order No. PSC-02-1516-FOF-EI, filed November 27, 2002 | 182 |
| Memorandum dated March 20, 2003 from Commission's Office of the General Counsel and Divisions of Auditing and Safety and Consumer Affairs to Division of the Commission Clerk and Administrative Services, filed March 20, 2003 | 192 |
| Order PSC-03-0494-FOF-EI denying motion for reconsideration, issued April 15, 2003 | 204 |
| Memorandum dated April 22, 2003 from Commission's Office of the General Counsel to Division of the Commission Clerk and Administrative Services advising of administrative closing of docket, filed April 23, 2003 | 215 |
| Notice of appeal, on behalf of Jose Gutman o/b/o Amy Gutman, Jeff Leserra, Jose Gutman, Donna Tennant, and Teresa Badillo, filed May 12, 2003 | 216 |
| Supreme Court of Florida acknowledgment of new case, Case No. SC03-932, filed June 10, 2003 | 229 |
| Letter dated July 21, 2003 from John T. Butler o/b/o FPL requesting Commission letter dated April 5, 2002 to parties be included in record, filed July 22, 2003 | 230 |
| Memorandum dated July 29, 2003 from Commission's Office of the General Counsel to Division of the Commission Clerk and Administrative Services with attached April 5, 2002 letter from Harold McClean, Commission, to petitioners regarding staff's proposal to dismiss complaint, filed July 29, 2003 | 231 |
| Certificate of Director, Division of the Commission Clerk and Administrative Services | 236 |

COMMISSIONERS:
LILA A. JABER, CHAIRMAN
J. TERRY DEASON
BRAULIO L. BAEZ
RUDOLPH "RUDY" BRADLEY
CHARLES M. DAVIDSON

STATE OF FLORIDA



DIVISION OF THE COMMISSION CLERK &
ADMINISTRATIVE SERVICES
BLANCA S. BAYÓ
DIRECTOR
(850) 413-6770 (CLERK)
(850) 413-6330 (ADMIN)

Public Service Commission

August 26, 2003

Jose Gutman, Pro Se
12643 Little Palm Lane
Boca Raton, Florida 33428

**Re: Supreme Court Case No. SC03-932 - Amy Gutman, Jeff Leserra, Jose Gutman,
Donna Tennant, and Teresa Badillo vs. Lila A. Jaber, Chairman, et al.
(Docket No. 010908-EI)**

Dear Mr. Gutman:

I have enclosed an invoice reflecting charges for preparation of the above-referenced record. Please forward a check in the amount indicated, made payable to the Florida Public Service Commission, at your earliest convenience.

Do not hesitate to call if you have any questions concerning this matter.

Sincerely,

A handwritten signature in cursive script that reads "Kay Flynn".

Kay Flynn, Chief
Bureau of Records and Hearing Services

KF:mhl
Enclosure

FLORIDA PUBLIC SERVICE COMMISSION

2540 Shumard Oak Blvd. ♦ Tallahassee, Florida 32399-0850

9330

Date: 8/26/03

To:

Jose Gutman, Pro Se
12643 Little Palm Lane
Boca Raton, Florida 33428

Date Paid _____

Amount Paid _____

Check # _____

☐ Check ☐ Cash

PSC Signature _____

↑ ↑
This number must appear on
all checks or correspondence
regarding this invoice.

Please make checks payable to: FLORIDA PUBLIC SERVICE COMMISSION

| QUANTITY | DESCRIPTION | PRICE | AMOUNT |
|-----------|--|-------------------|---------|
| 236 pages | Copying and preparation of Docket No. 010908-EI on appeal to Supreme Court, Case No. SC03-932 | @.05¢ per page | \$11.80 |
| 1 | Certificate of Director | - | 4.00 |
| TOTAL | | | \$15.80 |

ORIGINAL
STATE OF FLORIDA

COMMISSIONERS:
LILA A. JABER, CHAIRMAN
J. TERRY DEASON
BRAULIO L. BAEZ
RUDOLPH "RUDY" BRADLEY
CHARLES M. DAVIDSON



DIVISION OF THE COMMISSION CLERK &
ADMINISTRATIVE SERVICES
BLANCA S. BAYO
DIRECTOR
(850) 413-6770 (CLERK)
(850) 413-6330 (ADMIN)

Public Service Commission

August 26, 2003

COMMISSION
CLERK

03 SEP -5 AM 9:17

RECEIVED-FPSC

Thomas D. Hall, Clerk
Supreme Court of Florida
Supreme Court Building
Tallahassee, Florida 32301

Re: Supreme Court Case No. SC03-932 - Amy Gutman, Jeff Leserra, Jose Gutman,
Donna Tennant, and Teresa Badillo vs. Lila A. Jaber, Chairman, et al.
(Docket No. 010908-EI)

Dear Mr. Hall:

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Do not hesitate to call me at 413-6744 if you have any questions about the contents of this record.

RECEIVED
THOMAS D. HALL

AUG 26 2003

CLERK, SUPREME COURT
BY _____

Sincerely,

A handwritten signature, likely of Kay Flynn, in dark ink.

Kay Flynn, Chief
Bureau of Records and Hearing Services

KF:mhl
Enclosure

cc: Jose Gutman, Pro Se
Marlene Stern, Esquire
John T. Butler, Esquire

RECEIVED BY _____

DATE _____

8/26/03

CAPITAL CIRCLE OFFICE CENTER • 2540 SHUMARD OAK BOULEVARD • TALLAHASSEE, FL 32399-0850

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PSC Website: <http://www.floridapsc.com>

Internet E-mail: contact@psc.state.fl.us

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COMMISSIONERS:
LILA A. JABER, CHAIRMAN
J. TERRY DEASON
BRAULIO L. BAEZ
RUDOLPH "RUDY" BRADLEY
CHARLES M. DAVIDSON

STATE OF FLORIDA



DIVISION OF THE COMMISSION CLERK &
ADMINISTRATIVE SERVICES
BLANCA S. BAYÓ
DIRECTOR
(850) 413-6770 (CLERK)
(850) 413-6330 (ADMIN)

FILED
THOMAS D. HALL
2003 AUG 26 A 11:17

CLERK, SUPREME COURT
BY *[Signature]*

Public Service Commission

August 26, 2003

Thomas D. Hall, Clerk
Supreme Court of Florida
Supreme Court Building
Tallahassee, Florida 32301

Rec'd Record
back from Ct
9/5/03
[Signature]

Re: Supreme Court Case No. SC03-932 - Amy Gutman, Jeff Leserra, Jose Gutman,
Donna Tennant, and Teresa Badillo vs. Lila A. Jaber, Chairman, et al.
(Docket No. 010908-EI)

Dear Mr. Hall:

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Do not hesitate to call me at 413-6744 if you have any questions about the contents of this record.

Sincerely,

Kay Flynn

Kay Flynn, Chief
Bureau of Records and Hearing Services

KF:mhl
Enclosure

cc: Jose Gutman, Pro Se
Marlene Stern, Esquire
John T. Butler, Esquire

Case Assignment and Scheduling Record

Section 1 - Division of Records and Reporting (RAR) Completes

Docket No. 010908-EI Date Docketed: 06/26/2001 Title: Complaint against Florida Power & Light Company regarding placement of power poles and transmission lines by Amy & Jose Gutman, Teresa Badillo, and Jeff Lessera.
Company: Florida Power & Light Company

Official Filing Date: _____
Last Day to Suspend: _____

Expiration: _____

Referred to:
("()" indicates OPR)

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Section 2 - OPR Completes and returns to RAR in 10 workdays.

Time Schedule

Program/Module B6

Staff Assignments

OPR Staff

Staff Counsel

OCRs ()

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Recommended assignments for hearing and/or deciding this case:

Full Commission _____ Commission Panel _____
Hearing Examiner _____ Staff _____

Date filed with RAR: _____

Initials: OPR _____
Staff Counsel _____

WARNING: THIS SCHEDULE IS AN INTERNAL PLANNING DOCUMENT.
IT IS TENTATIVE AND SUBJECT TO REVISION.
FOR UPDATES CONTACT THE RECORDS SECTION: (850) 413-6770
Current CASR revision level

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Due Dates

Previous Current

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Section 3 - Chairman Completes

Assignments are as follows:

- Hearing Officer(s)

| Commissioners | | | | | | Hrg. Exam. | Staff |
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| ALL | JC | DS | JB | BZ | PL | | |
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- Prehearing Officer

| Commissioners | | | | | ADM |
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ADM

Where panels are assigned the senior Commissioner is Panel Chairman; the identical panel decides the case.

Where one Commissioner, a Hearing Examiner or a Staff Member is assigned the full Commission decides the case.

Approved: _____

Date: / /

13991-03

Case Assignment and Scheduling Record

Section 1 - Division of Records and Report (RAR) Completes

Docket No. 010908-EI Date Docketed: 06/26/2001 Title: Complaint against Florida Power & Light Company regarding placement of power poles and transmission lines by Amy & Jose Gutman, Teresa Badillo, and Jeff Lessera.

Official Filing Date: _____
Last Day to Suspend: _____

Expiration: _____

Referred to:
("()") indicates OPR

ADM AFA APP CAF CMP CMU EAG ECR GCL (LEG) PAI RAR RGO SER WAW
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Section 2 - OPR Completes and returns to RAR in 10 workdays.

Time Schedule

Program/Module B6

Staff Assignments

OPR Staff R Isaac, B Elias

Staff Counsel R Isaac, B Elias
OCRs (CAF) L Rasberry

(SER) E Mills

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Recommended assignments for hearing and/or deciding this case:

Full Commission X Commission Panel _____
Hearing Examiner _____ Staff _____

Date filed with RAR: 06/28/2001

Initials: OPR _____
Staff Counsel _____

**WARNING: THIS SCHEDULE IS AN INTERNAL PLANNING DOCUMENT.
IT IS TENTATIVE AND SUBJECT TO REVISION.
FOR UPDATES CONTACT THE RECORDS SECTION: (850) 413-6770
Current CASR revision level**

0

Due Dates

Previous Current

| | | |
|-------------------------------------|------|------------|
| 1. Staff Recommendation | NONE | 07/26/2001 |
| 2. Agenda | NONE | 08/07/2001 |
| 3. PAA Order | NONE | 08/27/2001 |
| 4. Consummating Order if No Protest | NONE | 09/26/2001 |
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Section 3 - Chairman Completes

Assignments are as follows:

- Hearing Officer(s)

| Commissioners | | | | | | Hrg. Exam. | Staff |
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| ALL | JC | DS | JB | BZ | PL | | |
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- Prehearing Officer

| Commissioners | | | | | ADM |
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Where panels are assigned the senior Commissioner is Panel Chairman; the identical panel decides the case.
Where one Commissioner, a Hearing Examiner or a Staff Member is assigned the full Commission decides the case.

Approved: D. J. / sm

Date: 06/28/2001

Section 1 - Bureau of Records and Hearing - Cases Completed

Official Filing Date: _____
Last Day to Suspend: _____

Expiration:

APP CAF CCA CMP ECR GCL (LEG) PAI RGO SER
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Section 2 - OPR Completes and returns to CCA in 10 workdays.

Time Schedule

Program/Module B6

Staff Assignments

OPR Staff B Elias

Staff Counsel B Elias

OCRs (CAF) L Raspberry

(SER) E Mills

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Recommended assignments for hearing
and/or deciding this case:

Full Commission X Commission Panel _____
Hearing Examiner Staff _____

Date filed with CCA: 07/23/2001

Initials: OPR _____
Staff Counsel _____

WARNING: THIS SCHEDULE IS AN INTERNAL PLANNING DOCUMENT.
IT IS TENTATIVE AND SUBJECT TO REVISION.
FOR UPDATES CONTACT THE RECORDS SECTION: (850) 413-6770
Current CASR revision [level]

Due Dates

Previous Current

1

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| 1. | Staff Recommendation | 07/26/2001 | 09/06/2001 |
| 2. | Agenda | 08/07/2001 | 09/18/2001 |
| 3. | PAA Order | 08/27/2001 | 10/08/2001 |
| 4. | Consummating Order if No Protest | 09/26/2001 | 11/05/2001 |
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Section 3 - Chairman Completes

Assignments are as follows:

- Hearing Officer(s)

| Commissioners | | | | | | Hrg. Exam. | Staff |
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| ALL | JC | DS | JB | BZ | PL | | |
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Where panels are assigned the senior Commissioner is Panel Chairman; the identical panel decides the case.
Where one Commissioner, a Hearing Examiner or a Staff Member is assigned the full Commission decides the case.

PSC/RAR-15 (Rev. 7/01)

* COMPLETED EVENTS

- Prehearing Officer

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Approved: 

Date: Pending 7/26/01

Case Assignment and Scheduling Record

Section 1 - Bureau of Records and Hearing Services Completes

Docket No. 010908-EI Date Docketed: 06/26/2001 Title: Complaint against Florida Power & Light Company regarding placement of power poles and transmission lines by Amy & Jose Gutman, Teresa Badillo, and Jeff Lessera.

Official Filing Date: _____
Last Day to Suspend: _____

Expiration: _____

Referred to:
("()" indicates OPR)

APP CAF CCA CMP ECR GCL (LEG) PAI RGO SER
____ X _____ X _____

Section 2 - OPR Completes and returns to CCA in 10 workdays.

Time Schedule

Program/Module B6

Staff Assignments

OPR Staff B Elias, L Dodson

Staff Counsel B Elias, L Dodson

OCRs (CAF) L Raspberry

(SER) E Mills

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Recommended assignments for hearing and/or deciding this case:

Full Commission X Commission Panel _____
Hearing Examiner _____ Staff _____

Date filed with CCA: 11/15/2001

Initials: OPR _____
Staff Counsel _____

**WARNING: THIS SCHEDULE IS AN INTERNAL PLANNING DOCUMENT.
IT IS TENTATIVE AND SUBJECT TO REVISION.
FOR UPDATES CONTACT THE RECORDS SECTION: (850) 413-6770**

Current CASR revision level

4

Due Dates

Previous Current

| | | |
|-------------------------------------|------------|------------|
| 1. Staff Recommendation | 12/06/2001 | 12/05/2001 |
| 2. Agenda | 12/18/2001 | 12/17/2001 |
| 3. PAA Order | 11/26/2001 | 01/07/2002 |
| 4. Consummating Order if No Protest | 12/21/2001 | 01/31/2002 |
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Section 3 - Chairman Completes

Assignments are as follows:

- Hearing Officer(s)

| Commissioners | | | | | | Hrg. Exam. | Staff |
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| ALL | JC | DS | JB | BZ | PL | | |
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- Prehearing Officer

| Commissioners | | | | | ADM |
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Where panels are assigned the senior Commissioner is Panel Chairman; the identical panel decides the case.

Where one Commissioner, a Hearing Examiner or a Staff Member is assigned the full Commission decides the case.

Approved: [Signature]

Date: 11/15/2001

Case Assignment and Scheduling Record

Section 1 - Bureau of Records and Hearing es Completes

Docket No. 010908-EI Date Docketed: 06/26/2001 Title: Complaint against Florida Power & Light Company regarding placement of power poles and transmission lines by Amy & Jose Gutman, Teresa Badillo, and Jeff Lessera.
Company: Florida Power & Light Company

Official Filing Date: _____
Last Day to Suspend: _____

Expiration: _____

Referred to: _____
("()" indicates OPR)

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Section 2 - OPR Completes and returns to CCA in 10 workdays.

Time Schedule

Program/Module B6

Staff Assignments

OPR Staff H McLean, C Keating

Staff Counsel H McLean, C Keating

OCRs (CAF) L Raspberry

(AUS) E Mills

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Recommended assignments for hearing and/or deciding this case:

Full Commission X Commission Panel _____
Hearing Examiner _____ Staff _____

Date filed with CCA: 07/24/2002

Initials: OPR _____
Staff Counsel _____

WARNING: THIS SCHEDULE IS AN INTERNAL PLANNING DOCUMENT. IT IS TENTATIVE AND SUBJECT TO REVISION. FOR UPDATES CONTACT THE RECORDS SECTION: (850) 413-6770
Current CASR revision level

6

Due Dates

Previous Current

| | | |
|---|------|------------|
| 1. Staff Recommendation - Motion to Dismiss | SAME | 08/22/2002 |
| 2. Agenda - Motion to Dismiss | SAME | 09/09/2002 |
| 3. Standard Order - Motion to Dismiss | SAME | 09/23/2002 |
| 4. Revised CASR Due | SAME | 09/30/2002 |
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Section 3 - Chairman Completes

Assignments are as follows:

- Hearing Officer(s)

| Commissioners | | | | | | Hrg. Exam. | Staff |
|---------------|----|----|----|----|----|------------|-------|
| ALL | JB | DS | BZ | PL | BD | | |
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- Prehearing Officer

| Commissioners | | | | | ADM |
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Where panels are assigned the senior Commissioner is Panel Chairman; the identical panel decides the case.
Where one Commissioner, a Hearing Examiner or a Staff Member is assigned the full Commission decides the case.

Approved: _____

Date: 07/24/2002

Case Assignment and Scheduling Record

Section 1 - Bureau of Records and Hearing ices Completes

Docket No. 010908-EI Date Docketed: 06/26/2001 Title: Complaint against Florida Power & Light Company regarding placement of power poles and transmission lines by Amy & Jose Gutman, Teresa Badillo, and Jeff Lessera.

Official Filing Date: _____
Last Day to Suspend: _____

Expiration: _____

Referred to: _____
("()") indicates OPR

AUS X CAF X CCA CMP ECR EXT (GCL) X MMS PIF

Section 2 - OPR Completes and returns to CCA in 10 workdays.

Time Schedule

Program/Module B6

Staff Assignments

OPR Staff H McLean, C Keating

Staff Counsel H McLean, C Keating

OCRs (CAF) L Raspberry

(AUS) E Mills

() _____

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Recommended assignments for hearing and/or deciding this case:

Full Commission X Commission Panel
Hearing Examiner Staff

Date filed with CCA: 12/10/2002

Initials: OPR _____
Staff Counsel _____

**WARNING: THIS SCHEDULE IS AN INTERNAL PLANNING DOCUMENT.
IT IS TENTATIVE AND SUBJECT TO REVISION.
FOR UPDATES CONTACT THE RECORDS SECTION: (850) 413-6770**

Current CASR revision level

7

Due Dates

Previous Current

| | | |
|--------------------------------|------|------------|
| 1. Staff Recommendation | NONE | 01/09/2003 |
| 2. Agenda | NONE | 01/21/2003 |
| 3. Standard Order | NONE | 02/10/2003 |
| 4. Close Docket or Revise CASR | NONE | 03/10/2003 |
| 5. _____ | | |
| 6. _____ | | |
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| 8. _____ | | |
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Section 3 - Chairman Completes

Assignments are as follows:

- Hearing Officer(s)

| Commissioners | | | | | | Hrg. Exam. | Staff |
|---------------|----|----|----|----|----|------------|-------|
| ALL | JB | DS | BZ | PL | BD | | |
| X | | | | | | | |

Where panels are assigned the senior Commissioner is Panel Chairman; the identical panel decides the case.
Where one Commissioner, a Hearing Examiner or a Staff Member is assigned the full Commission decides the case.

PSC/CCA015-C (Rev. 01/02)

* COMPLETED EVENTS

- Prehearing Officer

| Commissioners | | | | | ADM |
|---------------|----|----|----|----|-----|
| JB | DS | BZ | PL | BD | |
| | | | | | X |

Approved: L. J. Am

Date: 12/10/2002

Case Assignment and Scheduling Record

Section 1 - Bureau of Records and Hearing ces Completes

Docket No. 010908-EI Date Docketed: 06/26/2001 Title: Complaint against Florida Power & Light Company regarding placement of power poles and transmission lines by Amy & Jose Gutman, Teresa Badillo, and Jeff Lessera.
Company: Florida Power & Light Company

Official Filing Date: _____
Last Day to Suspend: _____

Expiration: _____

Referred to:
("()" indicates OPR)

AUS X CAF X CCA CMP ECR EXT (GCL) X MMS PIF

Section 2 - OPR Completes and returns to CCA in 10 workdays.

Time Schedule

Program/Module B6

Staff Assignments

OPR Staff H McLean, C Keating

Staff Counsel H McLean, C Keating

OCRs (CAF) L Raspberry

(AUS) E Mills

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Recommended assignments for hearing and/or deciding this case:

Full Commission X Commission Panel _____
Hearing Examiner Staff _____

Date filed with CCA: 01/06/2003

Initials: OPR _____
Staff Counsel _____

WARNING: THIS SCHEDULE IS AN INTERNAL PLANNING DOCUMENT.
IT IS TENTATIVE AND SUBJECT TO REVISION.
FOR UPDATES CONTACT THE RECORDS SECTION: (850) 413-6770
Current CASR revision level

8

Due Dates

Previous Current

| | | |
|--------------------------------|------------|------------|
| 1. Staff Recommendation | 01/09/2003 | 01/23/2003 |
| 2. Agenda | 01/21/2003 | 02/04/2003 |
| 3. Standard Order | 02/10/2003 | 02/24/2003 |
| 4. Close Docket or Revise CASR | NONE | 03/31/2003 |
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Section 3 - Chairman Completes

Assignments are as follows:

- Hearing Officer(s)

| Commissioners | | | | | | Hrg. Exam. | Staff |
|---------------|----|----|----|----|----|------------|-------|
| ALL | JB | DS | BZ | BD | DV | | |
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- Prehearing Officer

| Commissioners | | | | | ADM |
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Where panels are assigned the senior Commissioner is Panel Chairman; the identical panel decides the case.

Where one Commissioner, a Hearing Examiner or a Staff Member is assigned the full Commission decides the case.

Approved: _____

Date: Pending 1/8/03

Section 1 - Bureau of Records and Hearing Services Completes

Docket No. 010908-EI Date Docketed: 06/26/2001 Title: Complaint against Florida Power & Light Company regarding placement of power poles and transmission lines by Amy & Jose Gutman, Teresa Badillo, and Jeff Lessera.

Company: Florida Power & Light Company (EI802)

Official Filing Date: _____

Expiration: _____

Last Day to Suspend: _____

Referred to: _____

("C") indicates OPR

| AUS | CAF | CCA | CMP | ECR | EXT | (GCL) | MMS | PIF |
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| X | X | | | | | X | | |

Section 2 - OPR Completes and returns to CCA in 10 workdays.

Time Schedule

Program Module B6

**WARNING: THIS SCHEDULE IS AN INTERNAL PLANNING DOCUMENT
IT IS TENTATIVE AND SUBJECT TO REVISION.
FOR UPDATES CONTACT THE RECORDS SECTION: (850) 413-6770**

Staff Assignments

OPR Staff H McLean, C Keating
 Staff Counsel H McLean, C Keating
 OCRs (CAF) L Raspberry
 (AUS) E Mills

Due Dates

Previous Current

10 Current CASR revision level

| | | |
|--------------------------------|------------|------------|
| 1. Staff Recommendation | 02/06/2003 | 04/03/2003 |
| 2. Agenda | 02/18/2003 | 04/15/2003 |
| 3. Standard Order | 03/10/2003 | 05/05/2003 |
| 4. Close Docket or Revise CASR | NONE | 06/09/2003 |
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Recommended assignments for hearing
and/or deciding this case:

Full Commission X Commission Panel _____
 Hearing Examiner _____ Staff _____

Date filed with CCA: 02/11/2003

Initials: OPR _____

Staff Counsel _____

Section 3 - Chairman Completes

Assignments are as follows:

- Hearing Officer(s)

| Commissioners | | | | | | Hrg | Staff |
|---------------|----|----|----|----|----|------|-------|
| ALL | JB | DS | BZ | BD | DV | Exam | |
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Where panels are assigned the senior Commissioner is Panel Chairman:
the identical panel decides the case.

Where one Commissioner, a Hearing Examiner or a Staff Member is
assigned the full Commission decides the case.

- Prehearing Officer

| Commissioners | | | | | | ADM |
|---------------|----|----|----|----|--|-----|
| JB | DS | BZ | BD | DV | | |
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Approved: B-1/mDate: Pending 2/18/03

RAR Official Filing:

6/26/01*** 5:07 PM*****Linda Williams*****1**

Linda Williams

To: Bob Elias
Subject: RE:

Ok.

-----Original Message-----

From: Bob Elias
Sent: Tuesday, June 26, 2001 5:03 PM
To: Linda Williams
Subject: RE:

No.

-----Original Message-----

From: Linda Williams
Sent: Tuesday, June 26, 2001 5:02 PM
To: Bob Elias
Subject: RE:

Ok, it's your call do we need to do a letter?

-----Original Message-----

From: Bob Elias
Sent: Tuesday, June 26, 2001 4:48 PM
To: Linda Williams; Rachael Isaac
Subject: RE:

Oh yes, FPL is very much aware of the complaints and has filed a response with CAF.

-----Original Message-----

From: Linda Williams
Sent: Tuesday, June 26, 2001 4:42 PM
To: Bob Elias
Subject: RE:

To let the complaintee know what the complaintant is complaining about. It seems as though FPL is already aware of it right?

-----Original Message-----

From: Bob Elias
Sent: Tuesday, June 26, 2001 4:33 PM
To: Rachael Isaac; Linda Williams
Subject: RE:

Well, the informal conference has been waived. What is the usual purpose of the certified letter?

-----Original Message-----

From: Rachael Isaac
Sent: Tuesday, June 26, 2001 4:09 PM
To: Bob Elias
Subject: FW:

RAR Official Filing:

6/26/01*** 5:07 PM*****Linda Williams*****2**

We still need to serve FPL don't we?

-----Original Message-----

From: Linda Williams

Sent: Tuesday, June 26, 2001 3:50 PM

To: Bob Elias; Rachael Isaac

Subject:

Complaint against FPL by Amy & Jose Gutman, Teresa Badillo, and Jeff Lessera. We're establishing the docket on this complaint. Do we need to do a certified letter to FPL. In other words, was an informal conference held?

State of Florida



Public Service Commission
-M-E-M-O-R-A-N-D-U-M-

DATE: June 28, 2001
TO: Kay Flynn, RAR
FROM: Rachael Isaac, LEG *RNB RVE*
RE: Docket No. 010908-EI - COMPLAINT AGAINST FPL REGARDING PLACEMENT OF POWER POLES AND TRANSMISSION LINES BY AMY & JOSE GUTMAN, TERESA BADILLO, AND JEFF LESERRA

Please add the following people onto the interested parties list of the above-referenced docket.

David Weinstein
12840 Smithdale Place
Boca Raton, FL 33428
(561)488-1112

Stephen Beaudette
12851 Smithdale Place
Boca Raton, FL 33428
(561)883-5124

Suzanne Terwilliger
12590 Little Palm Lane
Boca Raton, FL 33428
(561)487-4123

Joseph and Karen Sperty
12692 Little Palm Lane
Boca Raton, FL 33428
(561)483-9635

Bonnie Levy
12608 Little Palm Lane
Boca Raton, FL 33428
(561)479-0343

Robert Gerdung
22739 Horseshoe Way
Boca Raton, FL 33428
(561)852-7102

Ray Pinault
12661 Little Palm Lane
Boca Raton, FL 33428
(561)883-1908

RECEIVED-PPSC
01 JUN 28 PM 4:21
RECORDS AND
REPORTING

Done 7/03/01

Denise Weintraub
12662 Little Palm Lane
Boca Raton, FL 33428
(561)883-9966

Carolyn Zaremba
12619 Little Palm Lane
Boca Raton, FL 33428
(561)451-2547

Gary Fishman
12566 Little Palm Lane
Boca Raton, FL 33428
(561)218-9042

Charles Hammond
12548 Little Palm Lane
Boca Raton, FL 33428
(561)218-9767

Lisa Mintz
12572 Little Palm Lane
Boca Raton, FL 33428
(561)883-1502

Graham Cheshire
12554 Little Palm Lane
Boca Raton, FL 33428
(561)482-3352

Manuel Negron
12620 Little Palm Lane
Boca Raton, FL 33428
(561)451-1296

Dave Denko
12686 Little Palm Lane
Boca Raton, FL 33428
(561)883-5115



RECEIVED-FPSC
02 APR 17 PM 12:56
COMMISSION
CLERK

April 9, 2002

Ms. Blanco S. Bayo, Director
Division of Clerk and Administrative Services
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850

RE: Florida Power & Light Tallahassee Office
Change in Fax/Phone Numbers

Dear Ms. Bayo:

The Florida Power & Light (FPL) Tallahassee Office recently installed a new phone system, resulting in a change in our local phone and fax numbers. Please reflect the following changes on your master list for all correspondence to William G. Walker and the FPL Tallahassee Office:

Office Phone Number: 850-521-3900

Fax Number: 850-521-3939

Thank you for accommodating this request. If you have any questions, please feel free to contact me at 850-521-3900.

Sincerely,

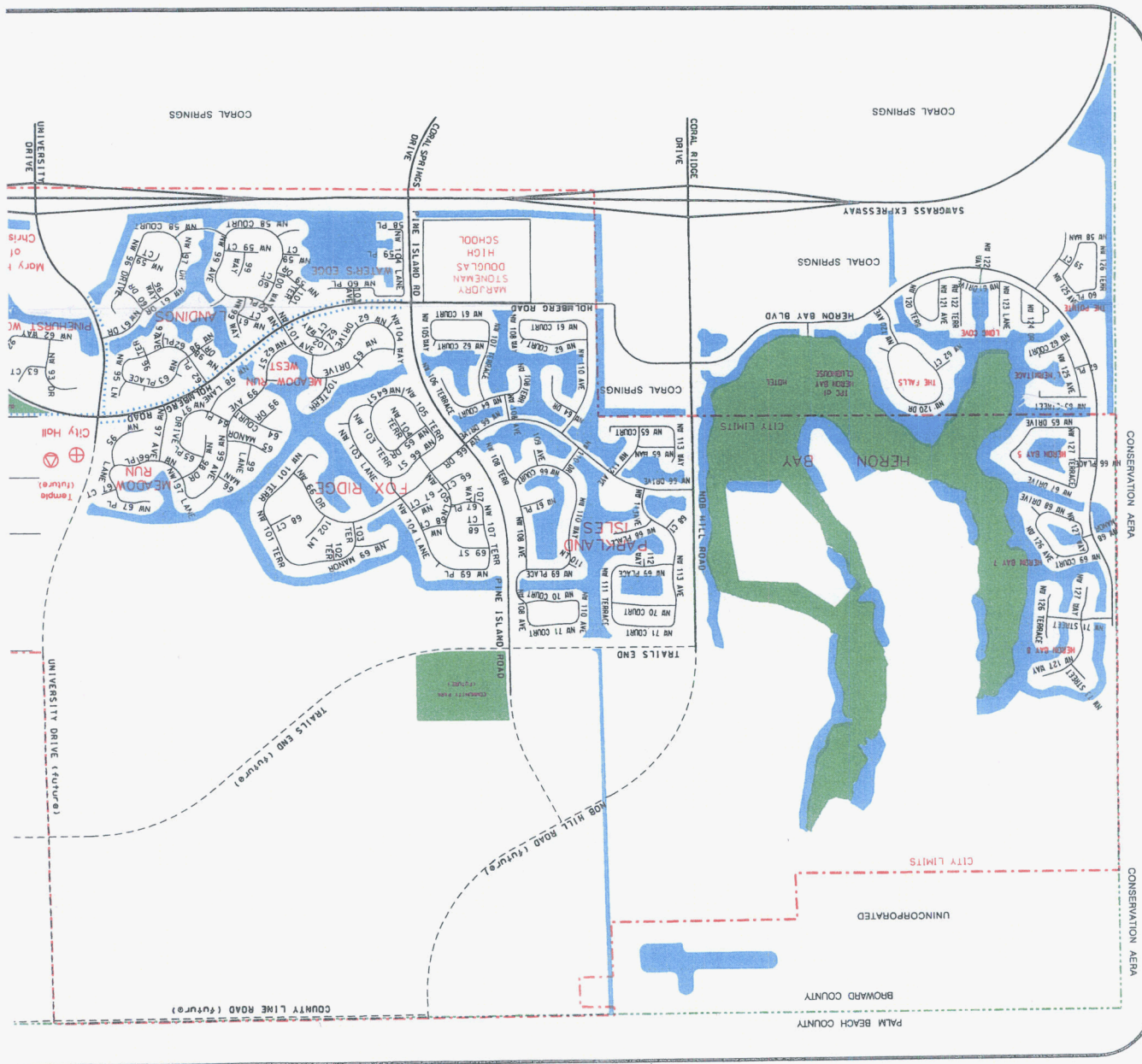
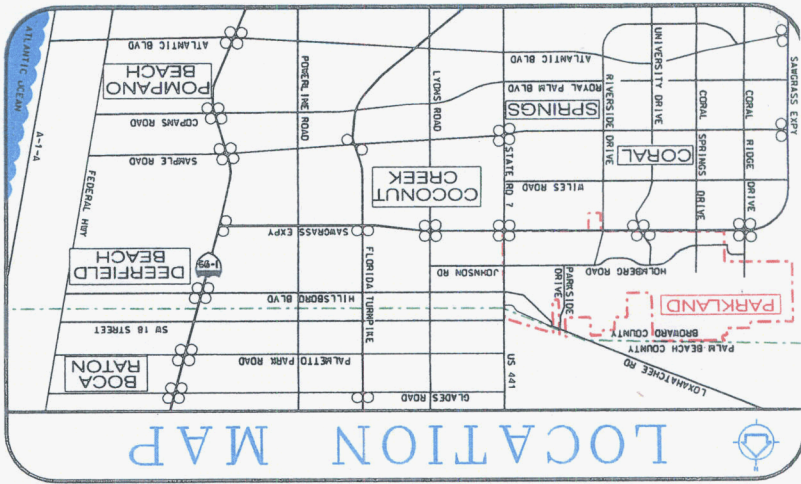
Lynne D. Adams
Principal Regulatory Coordinator

990188, 000824, 001574, 010283,
010534, 010908, 011340, 011351,
011605, 020001, 020002, 020007,
020084, 020175, 020233, 020243,
020244, 020262, 020263, 020284,
020332

Done 4/17/02

Hmg.

CITY OF
BROWARD COL
 6600 UNIVERSITY DRIVE
 PLANNING DEPARTMENT OF THE
 CITY OF PARKLAND
 THIS MAP WAS PREPARED BY THE
 PLANNING DEPARTMENT OF THE
 CITY OF PARKLAND
 APPROX. SCALE
 NORTH



Item No. 8 - Docket # 010908-EI

5/20/02 Commission Conference

(John Heoena)

PARKLAND
JNTY, FLORIDA
PARKLAND, FL 33067

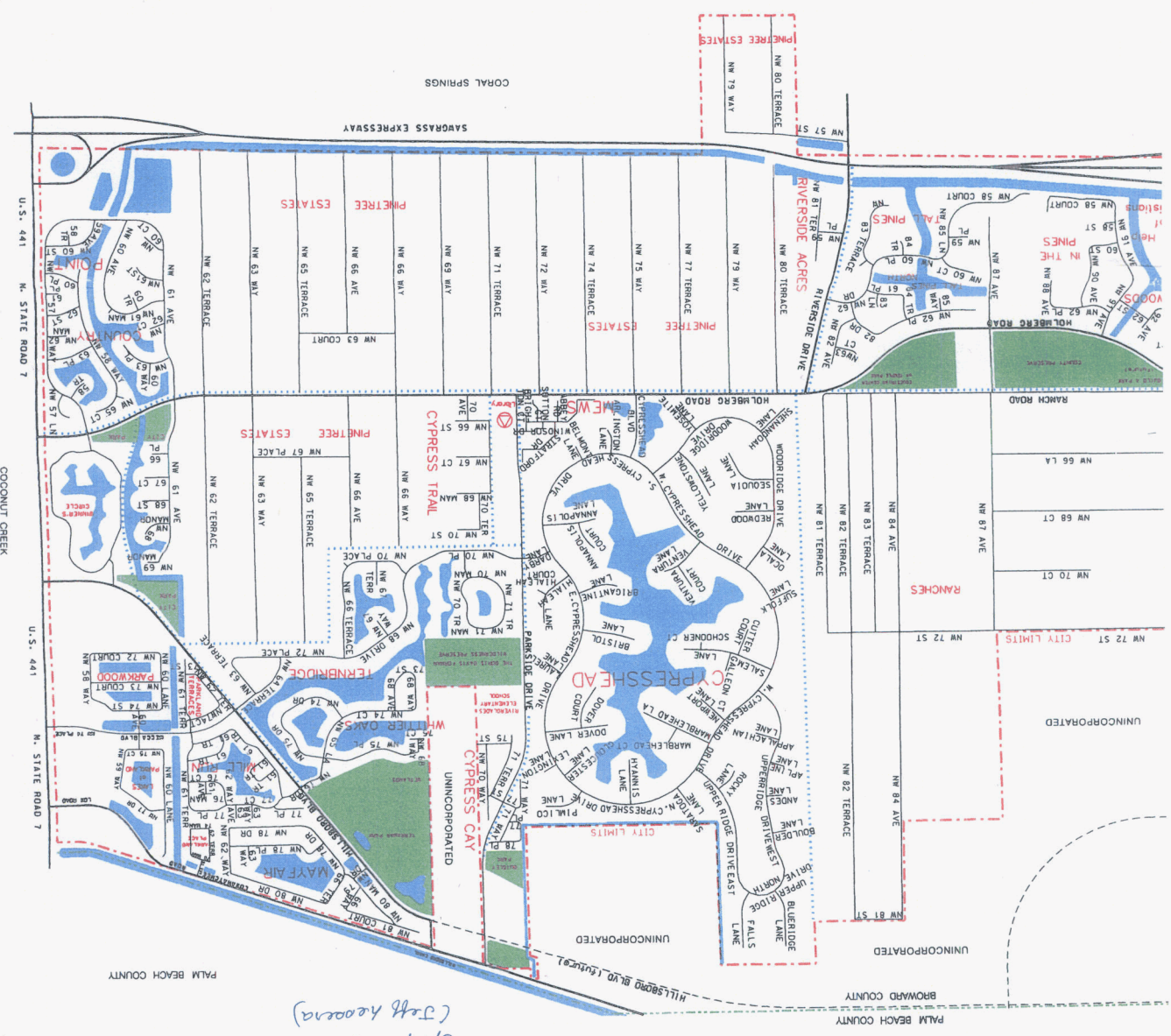
NOTE: NO PART OF THIS MAP MAY BE
REPRODUCED, STORED OR TRANSMITTED
IN ANY FORM OR BY ANY MEANS
WITHOUT WRITTEN PERMISSION
OF THE CITY OF PARKLAND

PLAT OR ORIGINATOR DATE: 03-08-90
REVISION DATE: 07-01-99

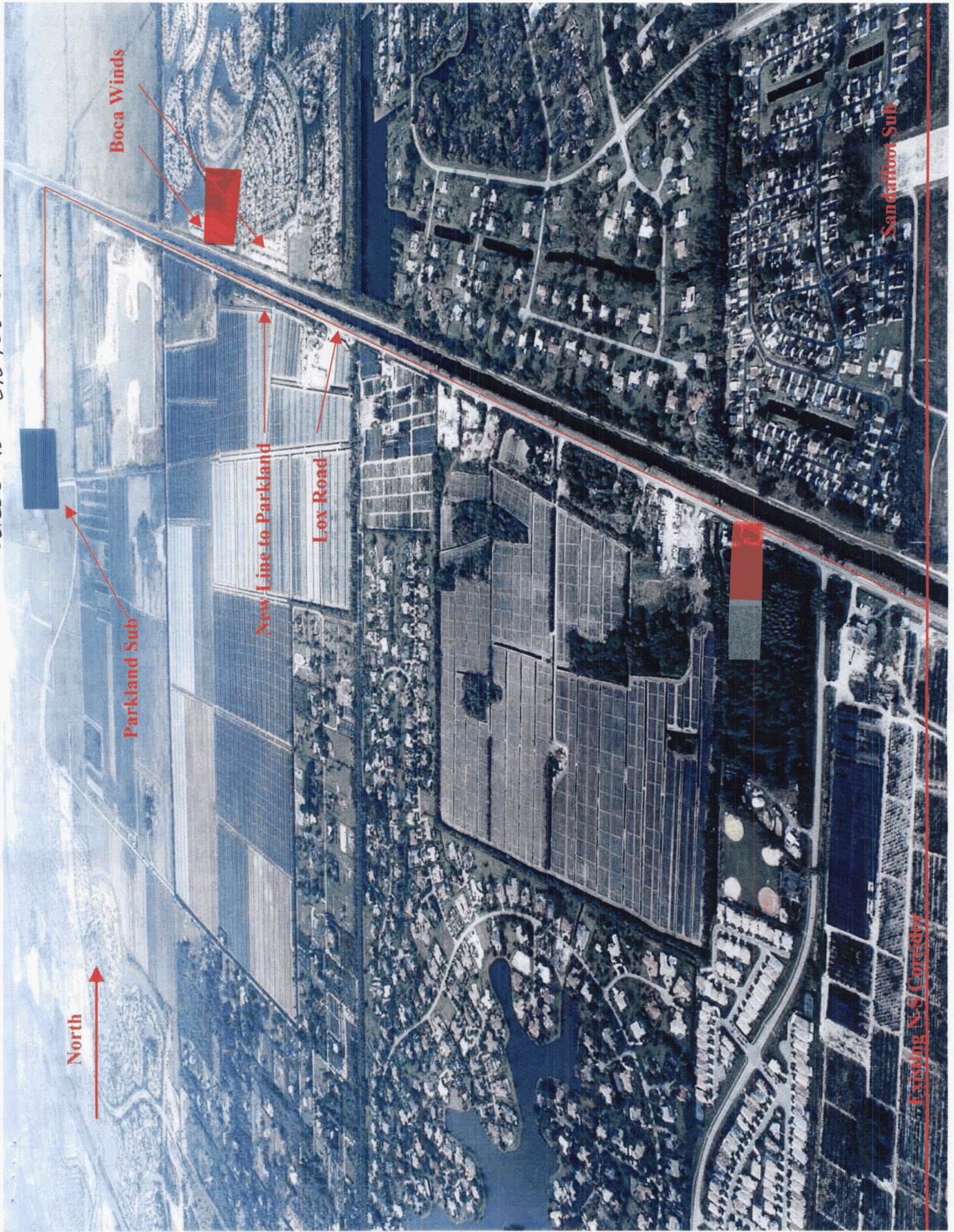
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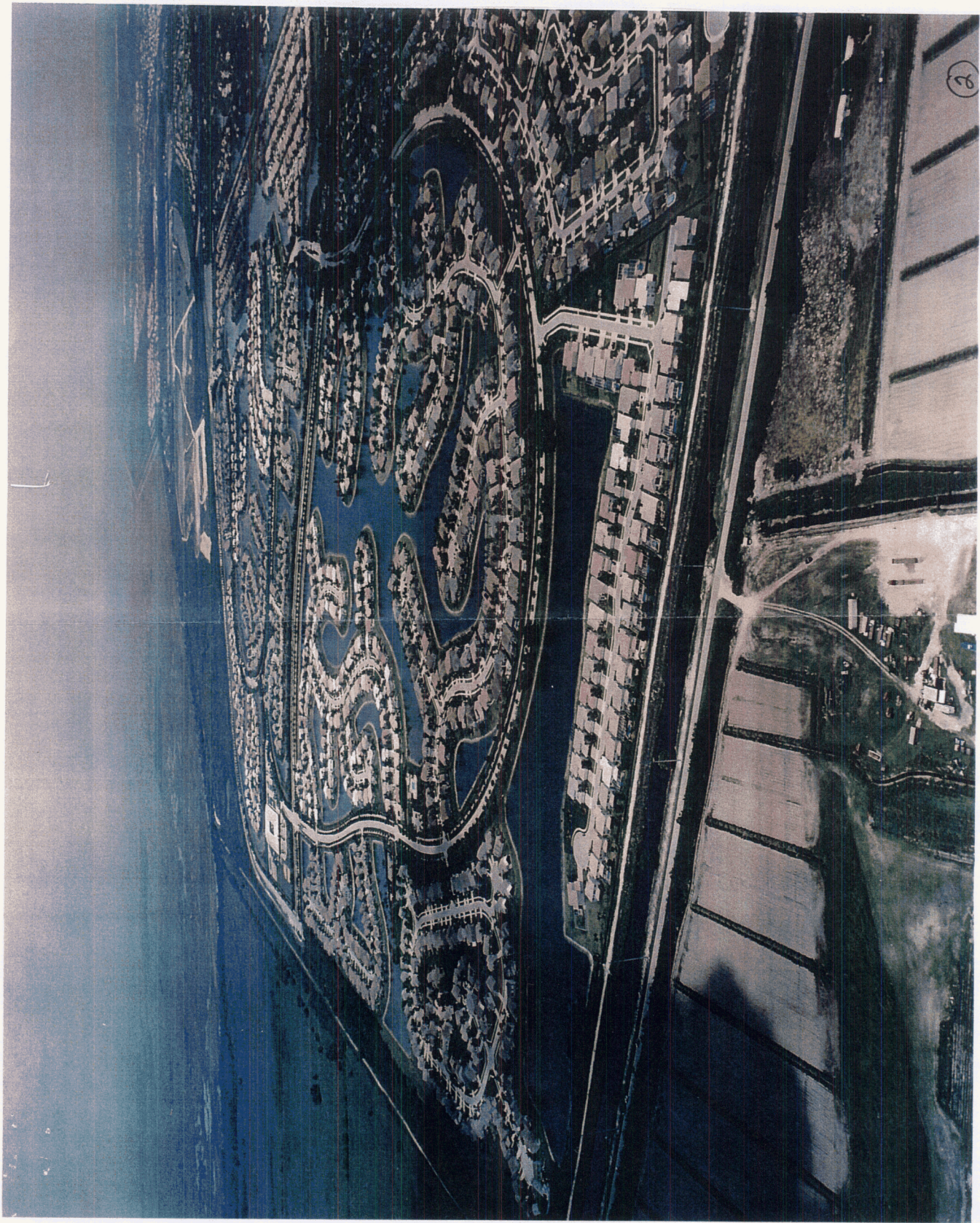
LEGEND

- INTERSTATE ROUTE
- PUBLIC ROADS
- FUTURE ROADWAYS
- MULTI-PURPOSE PATHWAY
- CITY LIMITS
- MUNICIPAL and COUNTY LINES
- FIRE STATION
- CITY HALL and POLICE STATION
- LAKES and CANALS
- PARKS and PUBLIC AREAS



Item No. 8 5/21/02 Agenda
Docket No. 010908-E1







8 10:09 AM



8 10:25 AM

Item No. 8 5/21/02 Agenda
 Docket No. 010908-E1

EXHIBIT 5

PARKLAND TRANSMISSION LINE & ALTERNATE ROUTES

-  Substation
-  Alternate Transmission Line Route
-  Existing Transmission Line
-  Least Cost Relocation Alternative
-  Main Road
-  Road
-  County Boundary

900 0 900 Feet



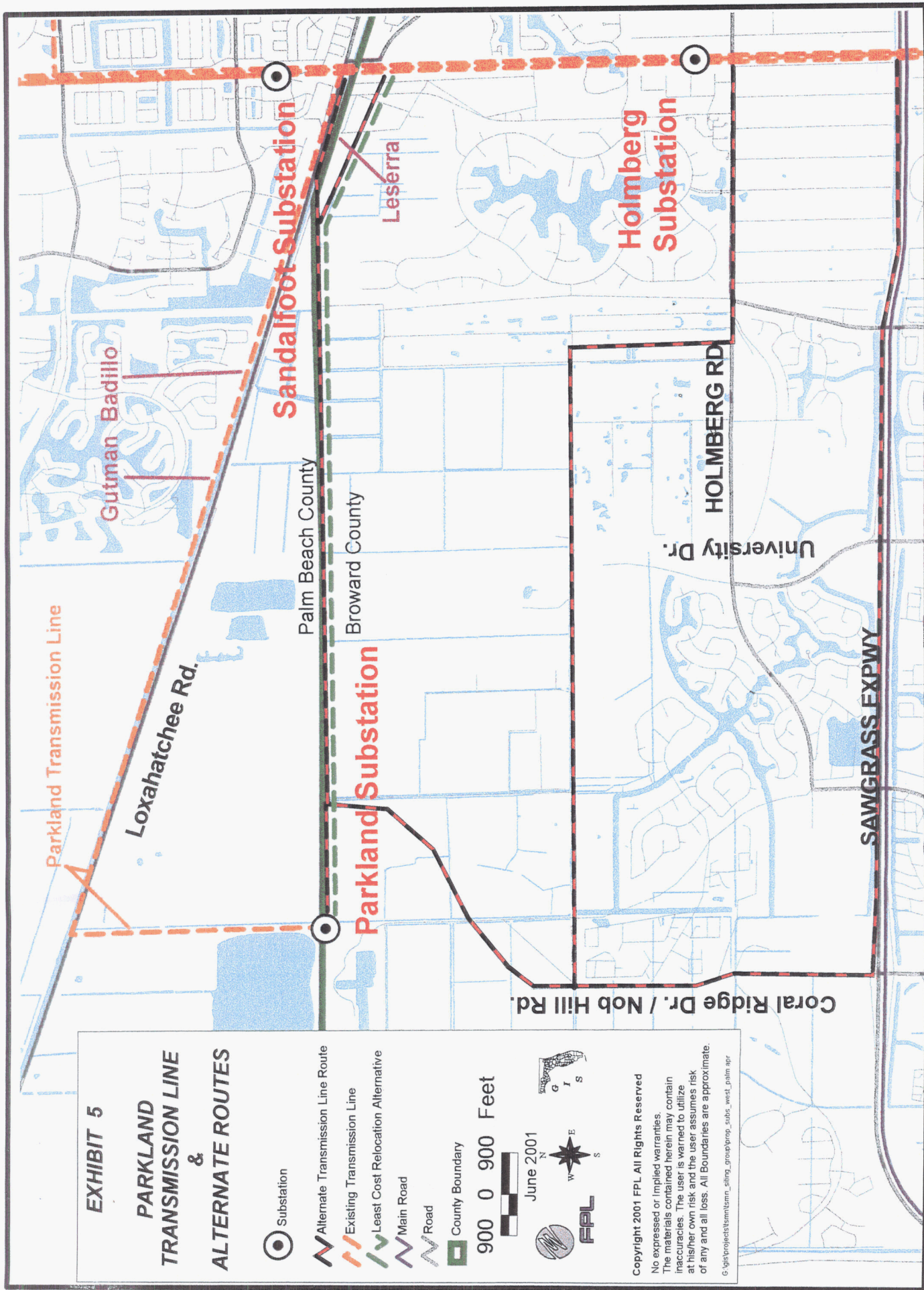
June 2001



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No expressed or implied warranties. The materials contained herein may contain inaccuracies. The user is warned to utilize at his/her own risk and the user assumes risk of any and all loss. All Boundaries are approximate.

G:\projects\transmission_siting_group\map_subs_west_palm_apr



FPL Meets NESC Safety Standards?

- ➡ Dr Wong: Page 1023 State of Florida Division of Administrative Hearing Case No. 01-1504

Q: Do the design specifications for these facilities comply with the National Electric Safety Code adopted by the Florida Public Service Commission?

A: Yes

Q: Do the design specifications for these facilities comply with FPL's internal standards, which are higher than the National Electric Safety Code?

A: Yes

- ➡ Mr. Butler's Supplemental Comments on Gutman, Badillo and Lessera Complaints dated July 9, 2001

As FPL has previously explained to the Complainants, the pole designs were reviewed under American National Standards Institute (ANSI)/American Society of Civil Engineers (ASCE) 7, Minimum Design Loads for Buildings and Other Structures criteria (a national standard) and ASCE Manuals and Reports on Engineering Practice #74, Guidelines for Electrical Transmission Line Structural Loading criteria (an industry standard).

- ➡ Florette Braun Letter to Tom Fratz dated May 6, 2002

Replace poles at permitted locations 12, 13, 14 and 37 (structures 211T12, 212t1, 212T2 and 214T1) to ensure compliance with FPL's internal standards

- ➡ Tom Fratz email to Donna Tennant dated May 17, 2002

The matter of FPL wanting to replace four of the poles to meet their internal standards is based on site conditions that were found as a result of the initial installation of the power line. I'm told that as a part of FPL's engineer's final review of the completed installation it was determined that four of the poles needed to be replaced with longer poles due to the soil conditions encountered during construction. At these locations the replacement poles need to be buried 5 feet deeper in the ground to meet FPL's standards. The tops of the poles will be no more than 6 inches above their present height

Hong Wang

From: Cochran Keating
Sent: Friday, May 10, 2002 4:20 PM
To: Hong Wang
Cc: Janice Banka
Subject: Docket No. 010908-EI

Hong-

Please add Donna Tennant to the interested persons list for Docket No. 010908-EI:

Donna Tennant
12596 Little Palm Lane
Boca Raton, FL 33428
(561)883-0837

Thanks.

Janice-

Please add this customer to our mailing list for the staff recommendation. Thanks.

STATE OF FLORIDA

COMMISSIONERS:
LILA A. JABER, CHAIRMAN
J. TERRY DEASON
BRAULIO L. BAEZ
MICHAEL A. PALECKI
RUDOLPH "RUDY" BRADLEY



OFFICE OF THE GENERAL COUNSEL
HAROLD A. MCLEAN
GENERAL COUNSEL
(850) 413-6199

Public Service Commission

May 13, 2002

RECEIVED-FPSC
02 MAY 13 PM 3:09
COMMISSION
CLERK

Ms. Teresa Badillo
12280 St. Simon Drive
Boca Raton, FL 33428

Re: Docket No. 010908-EI - Complaint against Florida Power & Light Company regarding placement of power poles and transmission lines by Amy & Jose Gutman, Teresa Badillo, and Jeff Lessera.

Dear Ms. Badillo:

Enclosed is a copy of the Staff Recommendation filed in this matter on May 9, 2002. The Commission is expected to consider this Recommendation at its May 21, 2002, Agenda Conference which will be held in Room 148, Betty Easley Conference Center, in Tallahassee beginning at 9:30 a.m.

If you wish to attend, please arrive promptly at the beginning of the Agenda Conference. **This docket will be heard as the first item at the Agenda Conference.** You are welcome to come to this Agenda Conference and observe and/or participate in the discussion of this item. If you wish to participate by phone, please notify me by 12:00 noon on Friday, May 17, 2002, so that the necessary arrangements can be made. If you have any questions, please feel free to call me at (850) 413-6193.

Sincerely,

A handwritten signature in cursive script, appearing to read "Cochran Keating".

Cochran Keating
Senior Attorney

WCK:jb
Enclosure

cc: Division of Consumer Affairs (Raspberry)
Division of the Commission Clerk and Administrative Services
Division of Auditing and Safety (Mills)
Office of the General Counsel (McLean)

CAPITAL CIRCLE OFFICE CENTER • 2540 SHUMARD OAK BOULEVARD • TALLAHASSEE, FL 32399-0850

An Affirmative Action/Equal Opportunity Employer

PSC Website: <http://www.floridapsc.com>

Internet E-mail: contact@psc.state.fl.us

STATE OF FLORIDA

COMMISSIONERS:
LILA A. JABER, CHAIRMAN
J. TERRY DEASON
BRAULIO L. BAEZ
MICHAEL A. PALECKI
RUDOLPH "RUDY" BRADLEY



OFFICE OF THE GENERAL COUNSEL
HAROLD A. McLEAN
GENERAL COUNSEL
(850) 413-6199

Public Service Commission

May 13, 2002

RECEIVED-FPSC
02 MAY 13 PM 3:09
COMMISSION
CLERK

Ms. Donna Tennant
12596 Little Palm Lane
Boca Raton, FL 33428

Re: Docket No. 010908-EI - Complaint against Florida Power & Light Company regarding placement of power poles and transmission lines by Amy & Jose Gutman, Teresa Badillo, and Jeff Lessera.

Dear Ms. Tennant:

Enclosed is a copy of the Staff Recommendation filed in this matter on May 9, 2002. The Commission is expected to consider this Recommendation at its May 21, 2002, Agenda Conference which will be held in Room 148, Betty Easley Conference Center, in Tallahassee beginning at 9:30 a.m.

If you wish to attend, please arrive promptly at the beginning of the Agenda Conference. **This docket will be heard as the first item at the Agenda Conference.** You are welcome to come to this Agenda Conference and observe and/or participate in the discussion of this item. If you wish to participate by phone, please notify me by 12:00 noon on Friday, May 17, 2002, so that the necessary arrangements can be made. If you have any questions, please feel free to call me at (850) 413-6193.

Sincerely,

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Cochran Keating
Senior Attorney

WCK:jb
Enclosure

cc: Division of Consumer Affairs (Raspberry)
Division of the Commission Clerk and Administrative Services
Division of Auditing and Safety (Mills)
Office of the General Counsel (McLean)

CAPITAL CIRCLE OFFICE CENTER • 2540 SHUMARD OAK BOULEVARD • TALLAHASSEE, FL 32399-0850

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PSC Website: <http://www.floridapsc.com>

Internet E-mail: contact@psc.state.fl.us

COMMISSIONERS:
LILA A. JABER, CHAIRMAN
J. TERRY DEASON
BRAULIO L. BAEZ
MICHAEL A. PALECKI
RUDOLPH "RUDY" BRADLEY

STATE OF FLORIDA



OFFICE OF THE GENERAL COUNSEL
HAROLD A. MCLEAN
GENERAL COUNSEL
(850) 413-6199

Public Service Commission

May 13, 2002

Mr. Stephen Beaudette
12851 Smithdale Place
Boca Raton, FL 33428

RECEIVED-PPSC
02 MAY 13 PM 3:09
COMMISSION
CLERK

Re: Docket No. 010908-EI - Complaint against Florida Power & Light Company regarding placement of power poles and transmission lines by Amy & Jose Gutman, Teresa Badillo, and Jeff Lessera.

Dear Mr. Beaudette:

Enclosed is a copy of the Staff Recommendation filed in this matter on May 9, 2002. The Commission is expected to consider this Recommendation at its May 21, 2002, Agenda Conference which will be held in Room 148, Betty Easley Conference Center, in Tallahassee beginning at 9:30 a.m.

If you wish to attend, please arrive promptly at the beginning of the Agenda Conference. **This docket will be heard as the first item at the Agenda Conference.** You are welcome to come to this Agenda Conference and observe and/or participate in the discussion of this item. If you wish to participate by phone, please notify me by 12:00 noon on Friday, May 17, 2002, so that the necessary arrangements can be made. If you have any questions, please feel free to call me at (850) 413-6193.

Sincerely,

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Cochran Keating
Senior Attorney

WCK:jb

Enclosure

cc: Division of Consumer Affairs (Raspberry)
Division of the Commission Clerk and Administrative Services
Division of Auditing and Safety (Mills)
Office of the General Counsel (McLean)

CAPITAL CIRCLE OFFICE CENTER • 2540 SHUMARD OAK BOULEVARD • TALLAHASSEE, FL 32399-0850

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BRAULIO L. BAEZ
MICHAEL A. PALECKI
RUDOLPH "RUDY" BRADLEY

STATE OF FLORIDA



OFFICE OF THE GENERAL COUNSEL
HAROLD A. MCLEAN
GENERAL COUNSEL
(850) 413-6199

Public Service Commission

May 13, 2002

Mr. Graham Cheshire
12554 Little Palm Lane
Boca Raton, FL 33428

RECEIVED-FPSC
02 MAY 13 PM 3:09
COMMISSION
CLERK

Re: Docket No. 010908-EI - Complaint against Florida Power & Light Company regarding placement of power poles and transmission lines by Amy & Jose Gutman, Teresa Badillo, and Jeff Lessera.

Dear Mr. Cheshire:

Enclosed is a copy of the Staff Recommendation filed in this matter on May 9, 2002. The Commission is expected to consider this Recommendation at its May 21, 2002, Agenda Conference which will be held in Room 148, Betty Easley Conference Center, in Tallahassee beginning at 9:30 a.m.

If you wish to attend, please arrive promptly at the beginning of the Agenda Conference. **This docket will be heard as the first item at the Agenda Conference.** You are welcome to come to this Agenda Conference and observe and/or participate in the discussion of this item. If you wish to participate by phone, please notify me by 12:00 noon on Friday, May 17, 2002, so that the necessary arrangements can be made. If you have any questions, please feel free to call me at (850) 413-6193.

Sincerely,

A handwritten signature in cursive script, appearing to read "Cochran Keating".

Cochran Keating
Senior Attorney

WCK:jb

Enclosure

cc: Division of Consumer Affairs (Raspberry)
Division of the Commission Clerk and Administrative Services
Division of Auditing and Safety (Mills)
Office of the General Counsel (McLean)

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RUDOLPH "RUDY" BRADLEY



OFFICE OF THE GENERAL COUNSEL
HAROLD A. MCLEAN
GENERAL COUNSEL
(850) 413-6199

Public Service Commission

May 13, 2002

Mr. Dave Denko
12686 Little Palm Lane
Boca Raton, FL 33428

Re: Docket No. 010908-EI - Complaint against Florida Power & Light Company regarding placement of power poles and transmission lines by Amy & Jose Gutman, Teresa Badillo, and Jeff Lessera.

Dear Mr. Denko:

Enclosed is a copy of the Staff Recommendation filed in this matter on May 9, 2002. The Commission is expected to consider this Recommendation at its May 21, 2002, Agenda Conference which will be held in Room 148, Betty Easley Conference Center, in Tallahassee beginning at 9:30 a.m.

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Sincerely,

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Cochran Keating
Senior Attorney

WCK:jb

Enclosure

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Division of the Commission Clerk and Administrative Services
Division of Auditing and Safety (Mills)
Office of the General Counsel (McLean)

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RUDOLPH "RUDY" BRADLEY



OFFICE OF THE GENERAL COUNSEL
HAROLD A. MCLEAN
GENERAL COUNSEL
(850) 413-6199

Public Service Commission

May 13, 2002

Mr. Gary Fishman
12566 Little Palm Lane
Boca Raton, FL 33428

Re: Docket No. 010908-EI - Complaint against Florida Power & Light Company regarding placement of power poles and transmission lines by Amy & Jose Gutman, Teresa Badillo, and Jeff Lessera.

Dear Mr. Fishman:

Enclosed is a copy of the Staff Recommendation filed in this matter on May 9, 2002. The Commission is expected to consider this Recommendation at its May 21, 2002, Agenda Conference which will be held in Room 148, Betty Easley Conference Center, in Tallahassee beginning at 9:30 a.m.

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Sincerely,

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Cochran Keating
Senior Attorney

WCK:jb
Enclosure

cc: Division of Consumer Affairs (Raspberry)
Division of the OCommission Clerk and Administrative Services
Division of Auditing and Safety (Mills)
Office of the General Counsel (McLean)

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STATE OF FLORIDA

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J. TERRY DEASON
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MICHAEL A. PALECKI
RUDOLPH "RUDY" BRADLEY



OFFICE OF THE GENERAL COUNSEL
HAROLD A. MCLEAN
GENERAL COUNSEL
(850) 413-6199

Public Service Commission

May 13, 2002

Mr. Robert Gerdung
22739 Horseshoe Way
Boca Raton, FL 33428

RECEIVED-FPSC
02 MAY 13 PM 3:09
COMMISSION
CLERK

Re: Docket No. 010908-EI - Complaint against Florida Power & Light Company regarding placement of power poles and transmission lines by Amy & Jose Gutman, Teresa Badillo, and Jeff Lessera.

Dear Mr. Gerdung:

Enclosed is a copy of the Staff Recommendation filed in this matter on May 9, 2002. The Commission is expected to consider this Recommendation at its May 21, 2002, Agenda Conference which will be held in Room 148, Betty Easley Conference Center, in Tallahassee beginning at 9:30 a.m.

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Sincerely,

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Cochran Keating
Senior Attorney

WCK:jb

Enclosure

cc: Division of Consumer Affairs (Raspberry)
Division of the OCommission Clerk and Administrative Services
Division of Auditing and Safety (Mills)
Office of the General Counsel (McLean)

STATE OF FLORIDA

COMMISSIONERS:
LILA A. JABER, CHAIRMAN
J. TERRY DEASON
BRAULIO L. BAEZ
MICHAEL A. PALECKI
RUDOLPH "RUDY" BRADLEY



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HAROLD A. McLEAN
GENERAL COUNSEL
(850) 413-6199

Public Service Commission

May 13, 2002

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Jose and Amy Gutman
12643 Little Palm Lane
Boca Raton, FL 33428

Re: Docket No. 010908-EI - Complaint against Florida Power & Light Company regarding placement of power poles and transmission lines by Amy & Jose Gutman, Teresa Badillo, and Jeff Lessera.

Dear Mr. & Mrs. Gutman:

Enclosed is a copy of the Staff Recommendation filed in this matter on May 9, 2002. The Commission is expected to consider this Recommendation at its May 21, 2002, Agenda Conference which will be held in Room 148, Betty Easley Conference Center, in Tallahassee beginning at 9:30 a.m.

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Sincerely,

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Cochran Keating
Senior Attorney

WCK:jb

Enclosure

cc: Division of Consumer Affairs (Raspberry)
Division of the Commission Clerk and Administrative Services
Division of Auditing and Safety (Mills)
Office of the General Counsel (McLean)

STATE OF FLORIDA

COMMISSIONERS:
LILA A. JABER, CHAIRMAN
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MICHAEL A. PALECKI
RUDOLPH "RUDY" BRADLEY



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HAROLD A. MCLEAN
GENERAL COUNSEL
(850) 413-6199

Public Service Commission

May 13, 2002

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Mr. Charles Hammond
12548 Little Palm Lane
Boca Raton, FL 33428

Re: Docket No. 010908-EI - Complaint against Florida Power & Light Company regarding placement of power poles and transmission lines by Amy & Jose Gutman, Teresa Badillo, and Jeff Lessera.

Dear Mr. Hammond:

Enclosed is a copy of the Staff Recommendation filed in this matter on May 9, 2002. The Commission is expected to consider this Recommendation at its May 21, 2002, Agenda Conference which will be held in Room 148, Betty Easley Conference Center, in Tallahassee beginning at 9:30 a.m.

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Sincerely,

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Cochran Keating
Senior Attorney

WCK:jb

Enclosure

cc: Division of Consumer Affairs (Raspberry)
Division of the Commission Clerk and Administrative Services
Division of Auditing and Safety (Mills)
Office of the General Counsel (McLean)

STATE OF FLORIDA

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MICHAEL A. PALECKI
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(850) 413-6199

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May 13, 2002

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CLERK

Mr. Jeff Lessera
7200 Loxahatchee Road
Pompano Beach, FL 33067

Re: Docket No. 010908-EI - Complaint against Florida Power & Light Company regarding placement of power poles and transmission lines by Amy & Jose Gutman, Teresa Badillo, and Jeff Lessera.

Dear Mr. Lessera:

Enclosed is a copy of the Staff Recommendation filed in this matter on May 9, 2002. The Commission is expected to consider this Recommendation at its May 21, 2002, Agenda Conference which will be held in Room 148, Betty Easley Conference Center, in Tallahassee beginning at 9:30 a.m.

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Sincerely,

A handwritten signature in cursive script, appearing to read "Cochran Keating".

Cochran Keating
Senior Attorney

WCK:jb

Enclosure

cc: Division of Consumer Affairs (Raspberry)
Division of the Commission Clerk and Administrative Services
Division of Auditing and Safety (Mills)
Office of the General Counsel (McLean)

STATE OF FLORIDA

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MICHAEL A. PALECKI
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HAROLD A. MCLEAN
GENERAL COUNSEL
(850) 413-6199

Public Service Commission

May 13, 2002

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Ms. Bonnie Levy
12608 Little Palm Lane
Boca Raton, FL 33428

Re: Docket No. 010908-EI - Complaint against Florida Power & Light Company regarding placement of power poles and transmission lines by Amy & Jose Gutman, Teresa Badillo, and Jeff Lessera.

Dear Ms. Levy:

Enclosed is a copy of the Staff Recommendation filed in this matter on May 9, 2002. The Commission is expected to consider this Recommendation at its May 21, 2002, Agenda Conference which will be held in Room 148, Betty Easley Conference Center, in Tallahassee beginning at 9:30 a.m.

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Sincerely,

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Cochran Keating
Senior Attorney

WCK:jb

Enclosure

cc: Division of Consumer Affairs (Raspberry)
Division of the Commission Clerk and Administrative Services
Division of Auditing and Safety (Mills)
Office of the General Counsel (McLean)

STATE OF FLORIDA

COMMISSIONERS:

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BRAULIO L. BAEZ
MICHAEL A. PALECKI
RUDOLPH "RUDY" BRADLEY



OFFICE OF THE GENERAL COUNSEL
HAROLD A. MCLEAN
GENERAL COUNSEL
(850) 413-6199

Public Service Commission

May 13, 2002

Ms. Lisa Mintz
12572 Little Palm Lane
Boca Raton, FL 33428

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COMMISSION
CLERK

Re: Docket No. 010908-EI - Complaint against Florida Power & Light Company regarding placement of power poles and transmission lines by Amy & Jose Gutman, Teresa Badillo, and Jeff Lessera.

Dear Ms. Mintz:

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Sincerely,

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Cochran Keating
Senior Attorney

WCK:jb

Enclosure

cc: Division of Consumer Affairs (Raspberry)
Division of the OCommission Clerk and Administrative Services
Division of Auditing and Safety (Mills)
Office of the General Counsel (McLean)

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MICHAEL A. PALECKI
RUDOLPH "RUDY" BRADLEY



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HAROLD A. MCLEAN
GENERAL COUNSEL
(850) 413-6199

Public Service Commission

May 13, 2002

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Mr. Manuel Negron
12620 Little Palm Lane
Boca Raton, FL 33428

Re: Docket No. 010908-EI - Complaint against Florida Power & Light Company regarding placement of power poles and transmission lines by Amy & Jose Gutman, Teresa Badillo, and Jeff Lessera.

Dear Mr. Negron:

Enclosed is a copy of the Staff Recommendation filed in this matter on May 9, 2002. The Commission is expected to consider this Recommendation at its May 21, 2002, Agenda Conference which will be held in Room 148, Betty Easley Conference Center, in Tallahassee beginning at 9:30 a.m.

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Sincerely,

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Cochran Keating
Senior Attorney

WCK:jb
Enclosure

cc: Division of Consumer Affairs (Raspberry)
Division of the Commission Clerk and Administrative Services
Division of Auditing and Safety (Mills)
Office of the General Counsel (McLean)

COMMISSIONERS:
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J. TERRY DEASON
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MICHAEL A. PALECKI
RUDOLPH "RUDY" BRADLEY

STATE OF FLORIDA



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HAROLD A. MCLEAN
GENERAL COUNSEL
(850) 413-6199

Public Service Commission

May 13, 2002

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Mr. Ray Pinault
12661 Little Palm Lane
Boca Raton, FL 33428

Re: Docket No. 010908-EI - Complaint against Florida Power & Light Company regarding placement of power poles and transmission lines by Amy & Jose Gutman, Teresa Badillo, and Jeff Lessera.

Dear Mr. Pinault:

Enclosed is a copy of the Staff Recommendation filed in this matter on May 9, 2002. The Commission is expected to consider this Recommendation at its May 21, 2002, Agenda Conference which will be held in Room 148, Betty Easley Conference Center, in Tallahassee beginning at 9:30 a.m.

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Sincerely,

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Cochran Keating
Senior Attorney

WCK:jb
Enclosure

cc: Division of Consumer Affairs (Raspberry)
Division of the OCommission Clerk and Administrative Services
Division of Auditing and Safety (Mills)
Office of the General Counsel (McLean)

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MICHAEL A. PALECKI
RUDOLPH "RUDY" BRADLEY

STATE OF FLORIDA



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HAROLD A. MCLEAN
GENERAL COUNSEL
(850) 413-6199

Public Service Commission

May 13, 2002

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Joseph & Karen Sperty
12692 Little Palm Lane
Boca Raton, FL 33428

Re: Docket No. 010908-EI - Complaint against Florida Power & Light Company regarding placement of power poles and transmission lines by Amy & Jose Gutman, Teresa Badillo, and Jeff Lessera.

Dear Mr. & Mrs. Sperty:

Enclosed is a copy of the Staff Recommendation filed in this matter on May 9, 2002. The Commission is expected to consider this Recommendation at its May 21, 2002, Agenda Conference which will be held in Room 148, Betty Easley Conference Center, in Tallahassee beginning at 9:30 a.m.

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Sincerely,

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Cochran Keating
Senior Attorney

WCK:jb
Enclosure

cc: Division of Consumer Affairs (Raspberry)
Division of the OCommission Clerk and Administrative Services
Division of Auditing and Safety (Mills)
Office of the General Counsel (McLean)

COMMISSIONERS:
LILA A. JABER, CHAIRMAN
J. TERRY DEASON
BRAULIO L. BAEZ
MICHAEL A. PALECKI
RUDOLPH "RUDY" BRADLEY

STATE OF FLORIDA



OFFICE OF THE GENERAL COUNSEL
HAROLD A. MCLEAN
GENERAL COUNSEL
(850) 413-6199

Public Service Commission

May 13, 2002

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COMMISSION
CLERK

Ms. Suzanne Terwilliger
12590 Little Palm Lane
Boca Raton, FL 33428

Re: Docket No. 010908-EI - Complaint against Florida Power & Light Company regarding placement of power poles and transmission lines by Amy & Jose Gutman, Teresa Badillo, and Jeff Lessera.

Dear Ms. Terwilliger:

Enclosed is a copy of the Staff Recommendation filed in this matter on May 9, 2002. The Commission is expected to consider this Recommendation at its May 21, 2002, Agenda Conference which will be held in Room 148, Betty Easley Conference Center, in Tallahassee beginning at 9:30 a.m.

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Sincerely,

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Cochran Keating
Senior Attorney

WCK:jb
Enclosure

cc: Division of Consumer Affairs (Raspberry)
Division of the OCommission Clerk and Administrative Services
Division of Auditing and Safety (Mills)
Office of the General Counsel (McLean)

STATE OF FLORIDA

COMMISSIONERS:
LILA A. JABER, CHAIRMAN
J. TERRY DEASON
BRAULIO L. BAEZ
MICHAEL A. PALECKI
RUDOLPH "RUDY" BRADLEY



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HAROLD A. McLEAN
GENERAL COUNSEL
(850) 413-6199

Public Service Commission

May 13, 2002

RECEIVED-PPSC
02 MAY 13 PM 3:10
COMMISSION
CLERK

Mr. David Weinstein
12840 Smithdale Place
Boca Raton, FL 33428

Re: Docket No. 010908-EI - Complaint against Florida Power & Light Company regarding placement of power poles and transmission lines by Amy & Jose Gutman, Teresa Badillo, and Jeff Lessera.

Dear Mr. Weinstein:

Enclosed is a copy of the Staff Recommendation filed in this matter on May 9, 2002. The Commission is expected to consider this Recommendation at its May 21, 2002, Agenda Conference which will be held in Room 148, Betty Easley Conference Center, in Tallahassee beginning at 9:30 a.m.

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Sincerely,

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Cochran Keating
Senior Attorney

WCK:jb

Enclosure

cc: Division of Consumer Affairs (Raspberry)
Division of the Commission Clerk and Administrative Services
Division of Auditing and Safety (Mills)
Office of the General Counsel (McLean)

STATE OF FLORIDA

COMMISSIONERS:
LILA A. JABER, CHAIRMAN
J. TERRY DEASON
BRAULIO L. BAEZ
MICHAEL A. PALECKI
RUDOLPH "RUDY" BRADLEY



OFFICE OF THE GENERAL COUNSEL
HAROLD A. MCLEAN
GENERAL COUNSEL
(850) 413-6199

Public Service Commission

May 13, 2002

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COMMISSION
CLERK

Ms. Denise Weintraub
12662 Little Palm Lane
Boca Raton, FL 33428

Re: Docket No. 010908-EI - Complaint against Florida Power & Light Company regarding placement of power poles and transmission lines by Amy & Jose Gutman, Teresa Badillo, and Jeff Lessera.

Dear Ms. Weintraub:

Enclosed is a copy of the Staff Recommendation filed in this matter on May 9, 2002. The Commission is expected to consider this Recommendation at its May 21, 2002, Agenda Conference which will be held in Room 148, Betty Easley Conference Center, in Tallahassee beginning at 9:30 a.m.

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Sincerely,

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Cochran Keating
Senior Attorney

WCK:jb

Enclosure

cc: Division of Consumer Affairs (Raspberry)
Division of the Commission Clerk and Administrative Services
Division of Auditing and Safety (Mills)
Office of the General Counsel (McLean)

COMMISSIONERS:
LILA A. JABER, CHAIRMAN
J. TERRY DEASON
BRAULIO L. BAEZ
MICHAEL A. PALECKI
RUDOLPH "RUDY" BRADLEY

STATE OF FLORIDA



OFFICE OF THE GENERAL COUNSEL
HAROLD A. MCLEAN
GENERAL COUNSEL
(850) 413-6199

Public Service Commission

May 13, 2002

COMMISSION
CLERK

02 MAY 13 PM 3:10

RECEIVED-FPSC

Ms. Carolyn Zaremba
12619 Little Palm Lane
Boca Raton, FL 33428

Re: Docket No. 010908-EI - Complaint against Florida Power & Light Company regarding placement of power poles and transmission lines by Amy & Jose Gutman, Teresa Badillo, and Jeff Lessera.

Dear Ms. Zaremba:

Enclosed is a copy of the Staff Recommendation filed in this matter on May 9, 2002. The Commission is expected to consider this Recommendation at its May 21, 2002, Agenda Conference which will be held in Room 148, Betty Easley Conference Center, in Tallahassee beginning at 9:30 a.m.

If you wish to attend, please arrive promptly at the beginning of the Agenda Conference. **This docket will be heard as the first item at the Agenda Conference.** You are welcome to come to this Agenda Conference and observe and/or participate in the discussion of this item. If you wish to participate by phone, please notify me by 12:00 noon on Friday, May 17, 2002, so that the necessary arrangements can be made. If you have any questions, please feel free to call me at (850) 413-6193.

Sincerely,

A handwritten signature in cursive script, appearing to read "Cochran Keating".

Cochran Keating
Senior Attorney

WCK:jb
Enclosure

cc: Division of Consumer Affairs (Raspberry)
Division of the Commission Clerk and Administrative Services
Division of Auditing and Safety (Mills)
Office of the General Counsel (McLean)

CCA Official Filing:

6/10/02***1:31 PM*****Matilda Sanders*****1**

Matilda Sanders

0788-PAA

From: Janice Banka
Sent: Monday, June 10, 2002 12:41 PM
To: CCA - Orders / Notices
Subject: Order / Notice Submitted

12

Date and Time: 6/10/02 12:38:00 PM
Docket Number: 010908-EI
Filename / Path: 010908or.wck

Notice of Proposed Agency Action Order Finding Transmission Facilities in Compliance with National Electrical Safety Code and Final Order Dismissing Complaints on all Other Grounds for Lack of Jurisdiction.

Number of pages in order - 12.

Thanks "J"

2/20

CCA Official Filing:

11/5/02*****11:39 AM*****Matilda Sanders*****1

Matilda Sanders

1516 - PCO

From: Janice Banka
Sent: Tuesday, November 05, 2002 11:38 AM
To: CCA - Orders / Notices
Subject: Order / Notice Submitted

8

Date and Time: 11/5/02 11:37:00 AM
Docket Number: 010908-EI
Filename / Path: 010908or.wpd

Order Granting Motion to Dismiss.

Number of pages in order - 8.

Thanks "J"

J/S

STATE OF FLORIDA

COMMISSIONERS:
LILA A. JABER, CHAIRMAN
J. TERRY DEASON
BRAULIO L. BAEZ
MICHAEL A. PALECKI
RUDOLPH "RUDY" BRADLEY



OFFICE OF THE GENERAL COUNSEL
HAROLD A. MCLEAN
GENERAL COUNSEL
(850) 413-6199

RECEIVED-FPSC
NOV - 6 PM 2:50
COMMISSION
CLERK

Public Service Commission

November 6, 2002

Jose and Amy Gutman
12643 Little Palm Lane
Boca Raton, FL 33428

Re: Docket No. 010908-EI - Complaint against Florida Power & Light Company regarding placement of power poles and transmission lines by Amy & Jose Gutman, Teresa Badillo, and Jeff Lessera.

Dear Mr. & Mrs. Gutman:

Enclosed is the Commission's Order reflecting its October 15, 2002, vote on Florida Power & Light Company's motion to dismiss in this docket. Also enclosed are the following items: (1) Rules 9.100 and 9.110, Florida Rules of Appellate Procedure; (2) Section 120.68, Florida Statutes; (3) Rules 25-22.0376 and 25-22.060, Florida Administrative Code. These three additional items are provided in response to a request for information from Ms. Donna Tennant. The first two of these items relate to appellate procedure, and the third item relates to reconsideration of Commission orders.

Sincerely,

Cochran Keating
Senior Attorney

WCK:jb
Enclosure

cc: Division of Consumer Affairs (Raspberry)
Division of the Commission Clerk and Administrative Services
Division of Auditing and Safety (Mills)
John Butler, Steel Hector & Davis

CAPITAL CIRCLE OFFICE CENTER • 2540 SHUMARD OAK BOULEVARD • TALLAHASSEE, FL 32399-0850

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PSC Website: <http://www.floridapsc.com>

Internet E-mail: contact@psc.state.fl.us

STATE OF FLORIDA

COMMISSIONERS:
LILA A. JABER, CHAIRMAN
J. TERRY DEASON
BRAULIO L. BAEZ
MICHAEL A. PALECKI
RUDOLPH "RUDY" BRADLEY



OFFICE OF THE GENERAL COUNSEL
HAROLD A. MCLEAN
GENERAL COUNSEL
(850) 413-6199

Public Service Commission

November 6, 2002

Ms. Donna Tennant
12596 Little Palm Lane
Boca Raton, FL 33428

Re: Docket No. 010908-EI - Complaint against Florida Power & Light Company regarding placement of power poles and transmission lines by Amy & Jose Gutman, Teresa Badillo, and Jeff Lessera.

Dear Ms. Tennant:

Enclosed is the Commission's Order reflecting its October 15, 2002, vote on Florida Power & Light Company's motion to dismiss in this docket. Also enclosed are the following items: (1) Rules 9.100 and 9.110, Florida Rules of Appellate Procedure; (2) Section 120.68, Florida Statutes; (3) Rules 25-22.0376 and 25-22.060, Florida Administrative Code. These three additional items are provided in response to a request for information from Ms. Donna Tennant. The first two of these items relate to appellate procedure, and the third item relates to reconsideration of Commission orders.

Sincerely,

A handwritten signature in cursive script, appearing to read "Cochran Keating".

Cochran Keating
Senior Attorney

WCK:jb

Enclosure

cc: Division of Consumer Affairs (Raspberry)
Division of the Commission Clerk and Administrative Services
Division of Auditing and Safety (Mills)
John Butler, Steel Hector & Davis

STATE OF FLORIDA

COMMISSIONERS:
LILA A. JABER, CHAIRMAN
J. TERRY DEASON
BRAULIO L. BAEZ
MICHAEL A. PALECKI
RUDOLPH "RUDY" BRADLEY



OFFICE OF THE GENERAL COUNSEL
HAROLD A. MCLEAN
GENERAL COUNSEL
(850) 413-6199

Public Service Commission

November 6, 2002

Ms. Teresa Badillo
12280 St. Simon Drive
Boca Raton, FL 33428

Re: Docket No. 010908-EI - Complaint against Florida Power & Light Company regarding placement of power poles and transmission lines by Amy & Jose Gutman, Teresa Badillo, and Jeff Lessera.

Dear Ms. Badillo:

Enclosed is the Commission's Order reflecting its October 15, 2002, vote on Florida Power & Light Company's motion to dismiss in this docket.

Sincerely,

A handwritten signature in cursive script, appearing to read "Cochran Keating".

Cochran Keating
Senior Attorney

WCK:jb

Enclosure

cc: Division of Consumer Affairs (Raspberry)
Division of the Commission Clerk and Administrative Services
Division of Auditing and Safety (Mills)
John Butler, Steel Hector & Davis

STATE OF FLORIDA

COMMISSIONERS:
LILA A. JABER, CHAIRMAN
J. TERRY DEASON
BRAULIO L. BAEZ
MICHAEL A. PALECKI
RUDOLPH "RUDY" BRADLEY



OFFICE OF THE GENERAL COUNSEL
HAROLD A. MCLEAN
GENERAL COUNSEL
(850) 413-6199

Public Service Commission

November 6, 2002

Mr. Jeff Lessera
7200 Loxahatchee Road
Parkland, FL 33067

Re: Docket No. 010908-EI - Complaint against Florida Power & Light Company regarding placement of power poles and transmission lines by Amy & Jose Gutman, Teresa Badillo, and Jeff Lessera.

Dear Mr. Lessera:

Enclosed is the Commission's Order reflecting its October 15, 2002, vote on Florida Power & Light Company's motion to dismiss in this docket.

Sincerely,

A handwritten signature in black ink, appearing to read "Cochran Keating".

Cochran Keating
Senior Attorney

WCK:jb

Enclosure

cc: Division of Consumer Affairs (Raspberry)
Division of the Commission Clerk and Administrative Services
Division of Auditing and Safety (Mills)
John Butler, Steel Hector & Davis

STATE OF FLORIDA

COMMISSIONERS:
LILA A. JABER, CHAIRMAN
J. TERRY DEASON
BRAULIO L. BAEZ
MICHAEL A. PALECKI
RUDOLPH "RUDY" BRADLEY



OFFICE OF THE GENERAL COUNSEL
HAROLD A. MCLEAN
GENERAL COUNSEL
(850) 413-6199

Public Service Commission

November 6, 2002

Ms. Suzanne Terwilliger
12590 Little Palm Lane
Boca Raton, FL 33428

Re: Docket No. 010908-EI - Complaint against Florida Power & Light Company regarding placement of power poles and transmission lines by Amy & Jose Gutman, Teresa Badillo, and Jeff Lessera.

Dear Ms. Terwilliger:

Enclosed is the Commission's Order reflecting its October 15, 2002, vote on Florida Power & Light Company's motion to dismiss in this docket.

Sincerely,

A handwritten signature in black ink, appearing to read "Cochran Keating".

Cochran Keating
Senior Attorney

WCK:jb

Enclosure

cc: Division of Consumer Affairs (Raspberry)
Division of the Commission Clerk and Administrative Services
Division of Auditing and Safety (Mills)
John Butler, Steel Hector & Davis

Public Service Commission

030003
010908
030001

RE: Items to Remove from Motions Report

15 PM 3:22
ADMISSION
CLERK

| | |
|-----|--------------|
| AUS | 789-633-1100 |
| BAT | 789-633-1100 |
| CMP | 789-633-1100 |
| COM | 789-633-1100 |
| CIP | 789-633-1100 |
| EOR | 789-633-1100 |
| GOL | 789-633-1100 |
| OPE | 789-633-1100 |
| MMS | 789-633-1100 |
| SEC | 789-633-1100 |
| OTE | 789-633-1100 |

CCA Official Filing:

1/16/03***5:04 PM*****Kay Flynn*****1**

Kay Flynn

From: Janice Banka
Sent: Thursday, January 16, 2003 4:40 PM
To: Kay Flynn
Subject: RE: motions, dates, etc.

Thanks so much Kay!

-----Original Message-----

From: Kay Flynn
Sent: Thursday, January 16, 2003 4:38 PM
To: Janice Banka
Subject: motions, dates, etc.

Janice, the ones I know about are:

08080-02 - Memo dated 9/17/02 [DN 10052-02 filed 9/19/02] said return conf.

10608-02 - Memo dated 12/16/02 [DN 13677-02] said return conf.

11328-02 - "

12243-02 - "

12344-02 - "

07908-02 - You'll need to ask Cochran what made this one moot.

Let me know if this isn't clear!

Kay

CCA Official Filing:

1/16/03***5:22 PM*****Kay Flynn*****1**

Kay Flynn

From: Kay Flynn
Sent: Wednesday, January 15, 2003 3:34 PM
To: Janice Banka
Cc: Cochran Keating; Mary Anne Helton
Subject: motions

Janice, I got your memo with the list of documents currently marked as motions in CMS. I did unmark DN 09529-02, but I believe the others need to remain marked as motions. They are/were motions, but there was no need to rule--for the reasons stated in the notes area for each. You can enter a "date satisfied" using the date of staff's memo saying to return the document or whatever other action took place to satisfy the motion.

I'm copying Mary Anne and Cochran on this e-mail as well. Please let me know if any questions.

Kay

| Tracking: | Recipient | Read |
|-----------|------------------|-----------------------|
| | Janice Banka | Read: 1/15/03 3:36 PM |
| | Cochran Keating | Read: 1/16/03 9:38 AM |
| | Mary Anne Helton | |

STATE OF FLORIDA

COMMISSIONERS:
LILA A. JABER, CHAIRMAN
J. TERRY DEASON
BRAULIO L. BAEZ
MICHAEL A. PALECKI
RUDOLPH "RUDY" BRADLEY



OFFICE OF THE GENERAL COUNSEL
HAROLD A. MCLEAN
GENERAL COUNSEL
(850) 413-6199

RECEIVED-FPSC
03 MAR 20 PM 3:37
COMMISSION
CLERK

Public Service Commission

March 20, 2003

Jose and Amy Gutman
12643 Little Palm Lane
Boca Raton, FL 33428

Re: Docket No. 010908-EI - Complaint against Florida Power & Light Company regarding placement of power poles and transmission lines by Amy & Jose Gutman, Teresa Badillo, and Jeff Lessera.

Dear Mr. & Mrs. Gutman:

Enclosed is a copy of the Staff Recommendation filed in this matter on March 20, 2003. The Commission is expected to consider this Recommendation at its April 1, 2003, Agenda Conference which will be held in Room 148, Betty Easley Conference Center, in Tallahassee beginning at 9:30 a.m.

From discussions with Mr. Gutman, I understand that you and the other customers involved wish to be present at the April 1, 2003, Agenda Conference by phone. I will continue to work with Mr. Gutman to make the necessary arrangements.

Sincerely,

A handwritten signature in cursive script, appearing to read "Cochran Keating".

Cochran Keating
Senior Attorney

WCK:jb
Enclosure

cc: Division of Consumer Affairs (Raspberry)
Division of the Commission Clerk and Administrative Services
Division of Auditing and Safety (Mills)
Office of the General Counsel (McLean)

STATE OF FLORIDA

COMMISSIONERS:
LILA A. JABER, CHAIRMAN
J. TERRY DEASON
BRAULIO L. BAEZ
MICHAEL A. PALECKI
RUDOLPH "RUDY" BRADLEY



OFFICE OF THE GENERAL COUNSEL
HAROLD A. MCLEAN
GENERAL COUNSEL
(850) 413-6199

Public Service Commission

March 20, 2003

Teresa Badillo
12280 St. Simon Drive
Boca Raton, FL 33428

Re: Docket No. 010908-EI - Complaint against Florida Power & Light Company regarding placement of power poles and transmission lines by Amy & Jose Gutman, Teresa Badillo, and Jeff Lessera.

Dear Ms. Badillo:

Enclosed is a copy of the Staff Recommendation filed in this matter on March 20, 2003. The Commission is expected to consider this Recommendation at its April 1, 2003, Agenda Conference which will be held in Room 148, Betty Easley Conference Center, in Tallahassee beginning at 9:30 a.m.

From discussions with Mr. Gutman, I understand that you and the other customers involved wish to be present at the April 1, 2003, Agenda Conference by phone. I will continue to work with Mr. Gutman to make the necessary arrangements.

Sincerely,

A handwritten signature in cursive script, appearing to read "Cochran Keating".

Cochran Keating
Senior Attorney

WCK:jb
Enclosure

cc: Division of Consumer Affairs (Raspberry)
Division of the Commission Clerk and Administrative Services
Division of Auditing and Safety (Mills)
Office of the General Counsel (McLean)

STATE OF FLORIDA

COMMISSIONERS:
LILA A. JABER, CHAIRMAN
J. TERRY DEASON
BRAULIO L. BAEZ
MICHAEL A. PALECKI
RUDOLPH "RUDY" BRADLEY



OFFICE OF THE GENERAL COUNSEL
HAROLD A. MCLEAN
GENERAL COUNSEL
(850) 413-6199

Public Service Commission

March 20, 2003

Jeff Lessera
7200 Loxahatchee Road
Pompano Beach, FL 33067

Re: Docket No. 010908-EI - Complaint against Florida Power & Light Company regarding placement of power poles and transmission lines by Amy & Jose Gutman, Teresa Badillo, and Jeff Lessera.

Dear Mr. Lessera:

Enclosed is a copy of the Staff Recommendation filed in this matter on March 20, 2003. The Commission is expected to consider this Recommendation at its April 1, 2003, Agenda Conference which will be held in Room 148, Betty Easley Conference Center, in Tallahassee beginning at 9:30 a.m.

From discussions with Mr. Gutman, I understand that you and the other customers involved wish to be present at the April 1, 2003, Agenda Conference by phone. I will continue to work with Mr. Gutman to make the necessary arrangements.

Sincerely,

A handwritten signature in cursive script, appearing to read "Cochran Keating".

Cochran Keating
Senior Attorney

WCK:jb
Enclosure

cc: Division of Consumer Affairs (Raspberry)
Division of the Commission Clerk and Administrative Services
Division of Auditing and Safety (Mills)
Office of the General Counsel (McLean)

COMMISSIONERS:
LILA A. JABER, CHAIRMAN
J. TERRY DEASON
BRAULIO L. BAEZ
MICHAEL A. PALECKI
RUDOLPH "RUDY" BRADLEY

STATE OF FLORIDA



OFFICE OF THE GENERAL COUNSEL
HAROLD A. MCLEAN
GENERAL COUNSEL
(850) 413-6199

Public Service Commission

March 20, 2003

Suzanne Terwilliger
12590 Little Palm Lane
Boca Raton, FL 33428

Re: Docket No. 010908-EI - Complaint against Florida Power & Light Company regarding placement of power poles and transmission lines by Amy & Jose Gutman, Teresa Badillo, and Jeff Lessera.

Dear Ms. Terwilliger:

Enclosed is a copy of the Staff Recommendation filed in this matter on March 20, 2003. The Commission is expected to consider this Recommendation at its April 1, 2003, Agenda Conference which will be held in Room 148, Betty Easley Conference Center, in Tallahassee beginning at 9:30 a.m.

From discussions with Mr. Gutman, I understand that you and the other customers involved wish to be present at the April 1, 2003, Agenda Conference by phone. I will continue to work with Mr. Gutman to make the necessary arrangements.

Sincerely,

A handwritten signature in cursive script, appearing to read "Cochran Keating".

Cochran Keating
Senior Attorney

WCK:jb
Enclosure

cc: Division of Consumer Affairs (Raspberry)
Division of the Commission Clerk and Administrative Services
Division of Auditing and Safety (Mills)
Office of the General Counsel (McLean)

STATE OF FLORIDA

COMMISSIONERS:
LILA A. JABER, CHAIRMAN
J. TERRY DEASON
BRAULIO L. BAEZ
MICHAEL A. PALECKI
RUDOLPH "RUDY" BRADLEY



OFFICE OF THE GENERAL COUNSEL
HAROLD A. McLEAN
GENERAL COUNSEL
(850) 413-6199

Public Service Commission

March 20, 2003

Donna Tennant
12596 Little Palm Lane
Boca Raton, FL 33428

Re: Docket No. 010908-EI - Complaint against Florida Power & Light Company regarding placement of power poles and transmission lines by Amy & Jose Gutman, Teresa Badillo, and Jeff Lessera.

Dear Ms. Tennant:

Enclosed is a copy of the Staff Recommendation filed in this matter on March 20, 2003. The Commission is expected to consider this Recommendation at its April 1, 2003, Agenda Conference which will be held in Room 148, Betty Easley Conference Center, in Tallahassee beginning at 9:30 a.m.

From discussions with Mr. Gutman, I understand that you and the other customers involved wish to be present at the April 1, 2003, Agenda Conference by phone. I will continue to work with Mr. Gutman to make the necessary arrangements.

Sincerely,

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Cochran Keating
Senior Attorney

WCK:jb

Enclosure

cc: Division of Consumer Affairs (Raspberry)
Division of the Commission Clerk and Administrative Services
Division of Auditing and Safety (Mills)
Office of the General Counsel (McLean)

Hong Wang

From: Cochran Keating
Sent: Monday, March 31, 2003 10:52 AM
To: Hong Wang
Subject: RE: Docket 010908

I do not have another address for him.

-----Original Message-----

From: Hong Wang
Sent: Friday, March 28, 2003 2:52 PM
To: Cochran Keating
Subject: Docket 010908

Cochran, the Agenda notice mailed to Manuel Negrón on 3/21/03 was returned. The address we have in CMS is: 12620 Little Palm Lane, Boca Raton, FL 33428, which was obtained from Rachael Isaac's memo dated 6/28/01. I have tried to call Mr. Negrón, but could not get through. Do you have another address for him?

Thanks!

Kimberley Pena

PSC-03-0494-FOF-EI

From: Janice Banka
Sent: Tuesday, April 15, 2003 10:27 AM
To: CCA - Orders / Notices
Subject: Order / Notice Submitted

Date and Time: 4/15/03 10:26:00 AM
Docket Number: 010908-EI
Filename / Path: 010908or.wpd

Order Denying Motion for Reconsideration.

Number of pages in order - 11.

Thanks "J"

2/20

STATE OF FLORIDA

COMMISSIONERS:
LILA A. JABER, CHAIRMAN
J. TERRY DEASON
BRAULIO L. BAEZ
MICHAEL A. PALECKI
RUDOLPH "RUDY" BRADLEY



OFFICE OF THE GENERAL COUNSEL
HAROLD A. MCLEAN
GENERAL COUNSEL
(850) 413-6199

RECEIVED FPSC
03 APR 16 PM 3:33
COMMISSION
CLERK

Public Service Commission

April 16, 2003

Jose and Amy Gutman
12643 Little Palm Lane
Boca Raton, FL 33428

Re: Docket No. 010908-EI - Complaint against Florida Power & Light Company regarding placement of power poles and transmission lines by Amy & Jose Gutman, Teresa Badillo, and Jeff Lessera.

Dear Mr. and Mrs. Gutman:

Enclosed is the Commission's Order reflecting its April 1, 2003, vote on the motion for reconsideration in this docket.

Sincerely,

A handwritten signature in cursive script, appearing to read "Cochran Keating".

Cochran Keating
Senior Attorney

WCK:jb

Enclosure

cc: Division of Consumer Affairs (Raspberry)
Division of the Commission Clerk and Administrative Services
Division of Auditing and Safety (Mills)

STATE OF FLORIDA

COMMISSIONERS:
LILA A. JABER, CHAIRMAN
J. TERRY DEASON
BRAULIO L. BAEZ
MICHAEL A. PALECKI
RUDOLPH "RUDY" BRADLEY



OFFICE OF THE GENERAL COUNSEL
HAROLD A. MCLEAN
GENERAL COUNSEL
(850) 413-6199

Public Service Commission

April 16, 2003

Ms. Suzanne Terwilliger
12590 Little Palm Lane
Boca Raton, FL 33428

Re: Docket No. 010908-EI - Complaint against Florida Power & Light Company regarding placement of power poles and transmission lines by Amy & Jose Gutman, Teresa Badillo, and Jeff Lessera.

Dear Ms. Terwilliger:

Enclosed is the Commission's Order reflecting its April 1, 2003, vote on the motion for reconsideration in this docket.

Sincerely,

A handwritten signature in black ink, appearing to read "Cochran Keating".

Cochran Keating
Senior Attorney

WCK:jb

Enclosure

cc: Division of Consumer Affairs (Raspberry)
Division of the Commission Clerk and Administrative Services
Division of Auditing and Safety (Mills)

STATE OF FLORIDA

COMMISSIONERS:
LILA A. JABER, CHAIRMAN
J. TERRY DEASON
BRAULIO L. BAEZ
MICHAEL A. PALECKI
RUDOLPH "RUDY" BRADLEY



OFFICE OF THE GENERAL COUNSEL
HAROLD A. MCLEAN
GENERAL COUNSEL
(850) 413-6199

Public Service Commission

April 16, 2003

Ms. Donna Tennant
12596 Little Palm Lane
Boca Raton, FL 33428

Re: Docket No. 010908-EI - Complaint against Florida Power & Light Company regarding placement of power poles and transmission lines by Amy & Jose Gutman, Teresa Badillo, and Jeff Lessera.

Dear Ms. Tennant:

Enclosed is the Commission's Order reflecting its April 1, 2003, vote on the motion for reconsideration in this docket.

Sincerely,

A handwritten signature in black ink, appearing to read "Cochran Keating".

Cochran Keating
Senior Attorney

WCK:jb
Enclosure

cc: Division of Consumer Affairs (Raspberry)
Division of the Commission Clerk and Administrative Services
Division of Auditing and Safety (Mills)

STATE OF FLORIDA

COMMISSIONERS:
LILA A. JABER, CHAIRMAN
J. TERRY DEASON
BRAULIO L. BAEZ
MICHAEL A. PALECKI
RUDOLPH "RUDY" BRADLEY



OFFICE OF THE GENERAL COUNSEL
HAROLD A. MCLEAN
GENERAL COUNSEL
(850) 413-6199

Public Service Commission

April 16, 2003

Ms. Teresa Badillo
12280 St. Simon Drive
Boca Raton, FL 33428

Re: Docket No. 010908-EI - Complaint against Florida Power & Light Company regarding placement of power poles and transmission lines by Amy & Jose Gutman, Teresa Badillo, and Jeff Lessera.

Dear Ms. Badillo:

Enclosed is the Commission's Order reflecting its April 1, 2003, vote on the motion for reconsideration in this docket.

Sincerely,

A handwritten signature in cursive script, appearing to read "Cochran Keating".

Cochran Keating
Senior Attorney

WCK:jb

Enclosure

cc: Division of Consumer Affairs (Raspberry)
Division of the Commission Clerk and Administrative Services
Division of Auditing and Safety (Mills)

STATE OF FLORIDA

COMMISSIONERS:
LILA A. JABER, CHAIRMAN
J. TERRY DEASON
BRAULIO L. BAEZ
MICHAEL A. PALECKI
RUDOLPH "RUDY" BRADLEY



OFFICE OF THE GENERAL COUNSEL
HAROLD A. MCLEAN
GENERAL COUNSEL
(850) 413-6199

Public Service Commission

April 16, 2003

Jeff Lessera
7200 Loxahatchee Road
Pompano Beach, FL 33067

Re: Docket No. 010908-EI - Complaint against Florida Power & Light Company regarding placement of power poles and transmission lines by Amy & Jose Gutman, Teresa Badillo, and Jeff Lessera.

Dear Mr. Lessera:

Enclosed is the Commission's Order reflecting its April 1, 2003, vote on the motion for reconsideration in this docket.

Sincerely,

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Cochran Keating
Senior Attorney

WCK:jb

Enclosure

cc: Division of Consumer Affairs (Raspberry)
Division of the Commission Clerk and Administrative Services
Division of Auditing and Safety (Mills)

ckt file

STATE OF FLORIDA

COMMISSIONERS:
LILA A. JABER, CHAIRMAN
J. TERRY DEASON
BRAULIO L. BAEZ
RUDOLPH "RUDY" BRADLEY
CHARLES M. DAVIDSON



DIVISION OF THE COMMISSION CLERK &
ADMINISTRATIVE SERVICES
BLANCA S. BAYÓ
DIRECTOR
(850) 413-6770 (CLERK)
(850) 413-6330 (ADMIN)

Public Service Commission

May 12, 2003

Thomas D. Hall, Clerk
Supreme Court of Florida
Supreme Court Building
Tallahassee, Florida 32301

**Re: Amy Gutman, Jeff Leserra, Jose Gutman, Donna Tennant, and Teresa Badillo
vs. Lila A. Jaber, Chairman, et al. (Docket No. 010908-EI)**

Dear Mr. Hall:

Enclosed is a certified copy of a Notice of Appeal, filed in this office on behalf of Amy Gutman, Jeff Leserra, Jose Gutman, Donna Tennant, and Teresa Badillo, filed May 12, 2003. A copy of Order No. PSC-03-0494-FOF-EI, the order on appeal, is attached to the notice as an exhibit.

It is our understanding the index of record is to be served on the parties to the proceeding by July 1, 2003, or 50 days after the notice of appeal was first filed with your office.

Sincerely,

A handwritten signature in cursive script, appearing to read "Kay Flynn".

Kay Flynn, Chief
Bureau of Records and Hearing Services

KF:mhl
Enclosure

cc: Jose Gutman, Pro Se
David E. Smith, Esquire
John T. Butler, Esquire

ORIGINAL

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

IN RE: Complaint against Florida Power & Light Company
regarding placement of power poles and transmission lines
by Amy & Jose Gutman, Teresa Badillo, and Jeff Lessera.

Docket No. 010908-EI
Order No. PSC-03-0494-FOF_EI
Issued: April 15, 2003

RECEIVED-FPSC
03 MAY 12 AM 10:09
COMMISSION
CLERK

AMY GUTMAN, JEFF LESERRA)
JOSE GUTMAN, DONNA TENNANT,)
TERESA BADILLO)
Pro Se, Appellants)
v.)

NOTICE OF
APPEAL

FLORIDA PUBLIC SERVICE COMMISSION)
Appellee)
_____)


NOTICE IS GIVEN that Amy Gutman, Jeff Leserra, Jose Gutman, Donna Tennant, Teresa Badillo, Appellants, appeal to the Supreme Court of Florida, the above identified Order of the Public Service Commission rendered on the 15th day of April 2003.

The nature of the Order appealed is a final agency action order concluding: (1.) That the Petitioners motion for reconsideration be dismissed and (2) That the Petitioner's motion for reconsideration of Order No. PSC-02-1516-FOF-EI be denied. Attached is a copy of the Public Service Commission Order that was provided to Petitioners by the office of Blanca S. Bayo', Director Division of the Commission Clerk and Administrative Services, representing a conformed copy showing Blanca S. Bayo's signature as required by Rule 9.110, Florida Rules Appellate Procedure.

Dated: May 8, 2003



Pro Se Qualified Representative for Appellants
Jose Gutman
12643 Little Palm Lane
Boca Raton, FL 33428
(561) 470-9829 Tel
(561) 213-2241 Fax

A TRUE COPY
ATTEST 
Chief, Bureau of Records and
Hearing Services

AUS _____
CAF _____
CMP _____
COM _____
CTR _____
ECR _____
GCL _____
JPC _____
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SEC _____
JTH Marguerite

Certificate of Service

I HEREBY CERTIFY that a true and correct copy of the notice of appeal has been mailed to the Clerk for the Florida Supreme Court and to the Clerk for the Public Service Commission, this 9th day of May, 2003.

By:

A handwritten signature in cursive script, reading "Jose Gutman". The signature is written in dark ink and is positioned above a horizontal line.

Jose Gutman, Qualified Representative

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Complaint against Florida Power & Light Company regarding placement of power poles and transmission lines by Amy & Jose Gutman, Teresa Badillo, and Jeff Lessera.

DOCKET NO. 010908-EI
ORDER NO. PSC-03-0494-FOF-EI
ISSUED: April 15, 2003

The following Commissioners participated in the disposition of this matter:

LILA A. JABER, Chairman
J. TERRY DEASON
BRAULIO L. BAEZ
RUDOLPH "RUDY" BRADLEY

ORDER DENYING MOTION FOR RECONSIDERATION

BY THE COMMISSION:

I. CASE BACKGROUND

Three separate informal complaints were filed with our Division of Consumer Affairs against Florida Power & Light Company ("FPL") regarding the placement of a particular FPL transmission line. The named complainants were Jose and Amy Gutman (Request No. 366172E), Teresa Badillo (Request No. 344754E), and Jeff Leserra (Request No. 367987E). The line in question is a 230kV transmission line that runs 4.75 miles in length along the south bank of the South Florida Water Management District's ("SFWMD") Hillsboro Canal and the north shoulder of Lox Road in northwest Broward County and southwest Palm Beach County, Florida. The line, known as the "Parkland Line," connects FPL's newly-constructed Parkland substation to FPL's existing transmission system. The land permit authorizing the line was granted by the Governing Board of the SFWMD at its July 2000 meeting, and construction of the line began in late October 2000.

In June 2001, our staff conducted two mediation sessions with FPL and the complainants to explore the possibility of settlement,

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but no resolution of the complaints was reached. Our staff made additional attempts to informally resolve this matter through agreement among the parties, but those attempts were not successful. By letter dated April 5, 2002, our staff provided the parties with its proposed resolution of these complaints, pursuant to Rule 25-22.032, Florida Administrative Code. The proposed resolution concluded that the transmission line in question is in compliance with the National Electrical Safety Code ("NESC"), which this Commission enforces, and that the remaining concerns involve subjects not within our jurisdiction and thus should be dismissed. By letter dated April 24, 2002, FPL concurred with the proposed resolution and requested that a recommendation concerning these complaints be submitted for our consideration. On May 2, 2002, the complainants filed their response to the proposed resolution, requesting that they be heard before us on this matter.

Because two informal mediation sessions with the parties had already been conducted, an informal conference was found unnecessary. Accordingly, we heard from the complainants and FPL on this matter at our May 21, 2002, Agenda Conference. By Order No. PSC-02-0788-PAA-EI, issued June 10, 2002, in this docket (the "June 10 Order"), we made the following findings: (1) the power poles and other facilities associated with FPL's Parkland transmission line are constructed in compliance with the NESC; and (2) we do not have the authority to grant the relief requested by the complainants, i.e., to require FPL to relocate its Parkland Line, based on the concerns raised by the complainants other than concerns that the Parkland Line does not comply with the NESC. The first finding was made as proposed agency action in Part II of the Order, and the second finding was made as final agency action in Part III of the Order. (Part I of the Order consisted only of the case background.)

On July 1, 2002, Jose Gutman, Suzanne Terwilliger, Jeff Leserra, Donna Tennant, and Teresa Badillo (collectively, "petitioners") filed a petition for a hearing before an Administrative Law Judge ("ALJ") on both the proposed agency action and final agency action taken in our June 10 Order. On July 17, 2002, FPL filed a motion to dismiss the petitioners' request for hearing, and the petitioners filed a response to FPL's motion to dismiss on July 31, 2002.

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By Order No. PSC-02-1516-FOF-EI, issued November 5, 2002 (the "November 5 Order"), we granted FPL's motion to dismiss the petitioners' request for hearing. First, we granted FPL's motion to dismiss, without prejudice, the petitioners' request for hearing on Part II of the June 10 Order, finding that the petitioners did not specifically plead how the Parkland Line is not in compliance with the NESC, nor how such non-compliance with the NESC entitles the petitioners to the relief they seek, i.e., having the line relocated. Petitioners were afforded the opportunity to amend their request for hearing to make such specific allegations. Second, we granted FPL's motion to dismiss, with prejudice, the petitioners' request for hearing on Part III of the June 10 Order. We noted that Part III of the Order was issued as final agency action, and the Order did not provide an opportunity to request a hearing on Part III because the law provides no right to request a hearing on final agency action.

On November 18, 2002, the petitioners filed a motion for reconsideration of the November 5 Order. FPL filed its response to the petitioners' motion for reconsideration on November 27, 2002. This Order addresses the petitioners' motion for reconsideration. We have jurisdiction over this matter pursuant to the provisions of Chapter 366, Florida Statutes, including Sections 366.04 and 366.05, Florida Statutes.

II. MOTION FOR RECONSIDERATION

The applicable standard of review for a motion for reconsideration is whether the motion identifies some point of fact or law that was overlooked or not considered by the decision-maker in rendering its order. Diamond Cab Co. V. King, 146 So. 2d 889 (Fla. 1962). The mere fact that a party disagrees with the order is not a valid basis for reconsideration. Id. Further, reweighing of the evidence is not a sufficient basis for reconsideration. State v. Green, 104 So. 2d 817 (Fla. 1st DCA 1958).

The petitioners ask this Commission to reconsider our Order No. PSC-1516-FOF-EI (the "November 5 Order") in its entirety. We address the petitioners' motion in two parts: (1) with respect to our decision to grant FPL's motion to dismiss, with prejudice, the petitioners' request for hearing on Part III of the June 10 Order, which was issued as final agency action; and (2) with respect to

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our decision to grant FPL's motion to dismiss, without prejudice, the petitioners' request for hearing on Part II of the June 10 Order, which was issued as proposed agency action.

A. Reconsideration of Dismissal of Request for Hearing on Part III of Order No. PSC-02-0788-PAA-EI

Petitioners' Arguments

In their motion, the petitioners contend that their request for hearing on Part III of the June 10 Order should have been considered not only as a request for hearing but also as a timely request for reconsideration of Part III of the Order. Although not stated directly in their motion, the petitioners appear to suggest that this Commission erred by doing otherwise. The petitioners assert that the June 10 Order "was complex with a number of time frames for response that were specified at the end of the Order" and did not clearly indicate that parties seeking reconsideration of the Order would not have an additional five days, beyond the 15 day reconsideration period set forth in the Order, "as permitted under Rule 28-106.103, [Florida Administrative Code]." The petitioners further argue that the Uniform Rules of Procedure allow an additional five days, beyond the 15 day reconsideration period set forth in the June 10 Order, for the petitioners to seek reconsideration of the Order. Noting their status as pro se litigants, the petitioners ask us to apply principles of excusable neglect and equitable tolling and allow the petitioners "the opportunity to be heard and to seek further proceedings" in response to Part III of the Order. The petitioners go on to argue that, contrary to our findings in Part III of the June 10 Order, this Commission does have jurisdiction to require FPL to relocate its power lines as necessary to promote the public welfare.

FPL's Arguments

In its response, FPL notes that the primary rationale stated in our November 5 Order for dismissing the petitioners' request for hearing on Part III of the June 10 Order is that the Order did not provide an opportunity to request a hearing on Part III because the law provides no right to request a hearing on final agency action. FPL states that the petitioners' motion for reconsideration entirely ignores this primary rationale, instead focusing on a

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tangential finding in the November 5 Order that even if the petitioners' request for hearing is considered as a request for reconsideration, it must be denied as untimely. FPL contends that nothing in the petitioners' request for hearing could conceivably qualify as a motion for reconsideration of Part III of the June 10 Order, and, therefore, we need not perform an analysis of the timeliness of such a motion. In any event, FPL asserts that we correctly construed the Uniform Rules of Procedure as not permitting an additional five days for service of a motion for reconsideration. Further, FPL asserts that the petitioners' motion for reconsideration provides no valid justification for applying the doctrines of excusable neglect or equitable tolling such that petitioners should have been given additional time to file a motion for reconsideration of the June 10 Order.

Analysis

Our November 5 Order states, in pertinent part:

We grant FPL's motion to dismiss, with prejudice, the petitioners' request for hearing on Part III of Order No. PSC-02-0788-PAA-EI. Part III of the Order was issued as final agency action. The "Notice of Further Proceedings and Judicial Review" set forth at the end of the Order, as required by Section 120.569(1), Florida Statutes, clearly sets forth the rights of the parties to appeal or seek reconsideration of Part III of the Order and the deadlines for doing both. The Order does not provide an opportunity to request a hearing on Part III because the law provides no right to request a hearing on final agency action.

The petitioners appear to suggest that their filing is appropriate because it was made within the time allowed for seeking reconsideration of Part III of the Order. The petitioners are incorrect. Even if the petitioners' filing is considered as a request for reconsideration of Part III, it must be denied as untimely. The "Notice of Further Proceedings and Judicial Review" set forth at the end of the Order clearly states that any request for reconsideration of Part III must be filed within 15 days of the issuance of the Order. Contrary to the

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petitioners suggestion, an additional five days is not permitted under Rule 28-106.103, Florida Administrative Code. That rule clearly states that no additional time shall be added when the period of time begins pursuant to the type of notice described in Rule 28-106.111, Florida Administrative Code, e.g., the "Notice of Further Proceedings and Judicial Review" set forth at the end of Order No. PSC-02-0788-PAA-EI. Further, the courts have not permitted extensions of time to request reconsideration of final agency action. City of Hollywood v. Public Employees Relations Commission, 432 So. 2d 79 (Fla. 4th DCA 1983).

Clearly, we dismissed the petitioners' request for hearing on Part III of the June 10 Order because neither the Order nor the law provided the right to request a hearing on final agency action. As FPL notes, the petitioners entirely ignore this rationale in their motion for reconsideration. Hence, the motion for reconsideration fails to identify any point of fact or law that this Commission overlooked or failed to consider in reaching this dispositive finding.

The petitioners' request for hearing expressly sought a hearing on both the proposed agency action and final agency action portions of our June 10 Order. Among the disputed issues set forth in the petitioners' request for hearing were the matters addressed as final agency action in Part III of the June 10 Order. Further, as FPL points out in its response to the petitioners' motion for reconsideration, the petitioners' request for hearing followed the format of a petition to initiate proceedings and ended by requesting relief in the form of "the right to appear before an Administrative Law Judge, and have the ALJ determine . . . if the PSC does indeed have a right to simply dismiss [the concerns dismissed in Part III of the June 10 Order]." Thus, we agree with FPL that nothing in the petitioners' request for hearing could conceivably qualify as a motion for reconsideration on Part III of our June 10 Order.

In their July 31, 2002, response to FPL's motion to dismiss their request for hearing, the petitioners suggested that their request for hearing was timely filed within the 15 day time period set forth in the June 10 Order. Still, the petitioners did not

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submit that they had intended their request for hearing on Part III of the June 10 Order as a motion for reconsideration. In the interest of being thorough, our order addressed a hypothetical situation in which the petitioners had intended their request for hearing as a motion for reconsideration. However, because none of the petitioners' pleadings had given any indication that their request for hearing on Part III of the June 10 Order was intended as a motion for reconsideration, the petitioners cannot now assert that this Commission erred by not treating their request for hearing as a motion for reconsideration also. Accordingly, an analysis of the timeliness of a motion for reconsideration would be merely an academic exercise.

In conclusion, we deny the petitioners' motion for reconsideration of our decision to dismiss the petitioners' request for hearing on Part III of the June 10 Order.

B. Reconsideration of Dismissal of Request for Hearing on Part II of Order No. PSC-02-0788-PAA-EI

Petitioners' Arguments

In their motion, the petitioners ask this Commission to reconsider that portion of the November 5 Order which dismisses the petitioners' request for hearing on Part II of the June 10 Order without prejudice to amend. Further, the petitioners ask that our engineers verify whether the Parkland Line complies with NESC requirements.

First, the petitioners assert that our engineers "have done only a minimal visual overview of the transmission line site and without any review of FPL engineering documents, and without any independent professional engineering analysis." The petitioners contend that they can only rely on FPL's general statements that the Parkland Line complies with the NESC without any supporting documentation from FPL or "externally verifiable engineering reports." Second, the petitioners assert that this is the first time that FPL has used this type of power pole on a parallel run so close to a canal, and that FPL's lack of experience with such an installation raises a safety concern. Third, the petitioners note that FPL applied for a modification to their SPWMD permit to change the design of the transmission line project to make it compliant

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with FPL's internal standards. The petitioners assert that FPL's application for a permit modification calls into question whether the Parkland Line has been in compliance with the NESC all along. Fourth, the petitioners suggest that the steps FPL has taken to comply with its internal standards may be related to poor soil conditions on the canal bank, then question whether other problems could be present along the canal bank.

FPL's Arguments

In its response, FPL asserts that the points raised by the petitioners do not warrant reconsideration of Part II of the June 10 Order. FPL asserts that the petitioners first point, as set forth above, is "just plain wrong." FPL notes that on September 6, 2002, a Commission engineer completed a safety evaluation of the Parkland Line based upon an inspection of each pole and concluded that there was not a "single trace" of a possible NESC violation. As to the petitioners second point, FPL asserts that the petitioners' motion for reconsideration makes no reference to anything in the NESC that relates to placement of poles near canals or to a requirement for prior experience installing such poles. As to the petitioners' third point, FPL notes that the modification to its SFWMD permit was obtained to modify the Parkland Line to meet FPL's internal standards, not NESC requirements. FPL asserts that by taking these steps, the Parkland Line is presumably safer now rather than less safe. FPL asserts that the petitioners' fourth point is no more than speculation and cannot be the type of specific allegation of non-compliance with the NESC contemplated by the November 5 Order.

Analysis

Our November 5 Order states, in pertinent part:

We further grant FPL's motion to dismiss, without prejudice, the petitioners' request for hearing on Part II of Order No. PSC-02-0788-PAA-EI. We tend to agree with FPL's suggestion that the appropriate remedy for any deficiency found in the line is correction of that deficiency, rather than relocation of the line. The petitioners have not specifically pled how the Parkland Line is not in compliance with the NESC, nor have they

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pled how such non-compliance with the NESC entitles the petitioners to the relief they seek, i.e., having the line relocated. Accordingly, the petitioners' request for hearing as to Part II of the Order is dismissed without prejudice to the petitioners' right to amend their request for hearing to specifically allege how the Parkland Line is not in compliance with the NESC and why such non-compliance requires relocation of the line.

The petitioners' motion for reconsideration fails to identify any point of fact or law that was overlooked or not considered in rendering this portion of the November 5 Order. The petitioners' first and third points, as set forth above, were raised by the petitioners in their request for hearing and were considered in rendering the November 5 Order. The petitioners' second and fourth points, as set forth above, introduce speculation of safety concerns because this is the first time FPL has installed a transmission line along a canal and because poor soil conditions may be present. Neither of these points undercuts the rationale for the relevant portion of the November 5 Order cited above because neither point, had it been presented prior to the November 5 Order, specifically alleges non-compliance with the NESC or how such non-compliance entitles the petitioners to the relief of having the Parkland Line moved. Our jurisdiction over the safety of transmission facilities is limited to enforcement of the NESC's requirements. Thus, it would be pointless to move toward a formal hearing without an allegation of an NESC violation within our jurisdiction to remedy.

In conclusion, we deny the petitioners' motion for reconsideration of the Commission's decision to dismiss, without prejudice, the petitioners' request for hearing on Part II of the June 10 Order.

III. OTHER PROCEDURAL MATTERS

Our November 5 Order provided the petitioners the opportunity to file, within 20 days of the issuance of that Order, an amended request for hearing on Part II of the June 10 Order. The November 5 Order went on to state that if an amended request for hearing was not filed within that time, this docket would be administratively closed.

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Citing Rule 25-22.060(1)(c), Florida Administrative Code, FPL argues that the petitioners no longer have the option of filing an amended request for hearing on Part II of the June 10 Order. Rule 25-22.060(1)(c), Florida Administrative Code, provides that "[a] final order shall not be deemed rendered for the purpose of judicial review until the Commission disposes of any motion and cross motion for reconsideration of that order, but this provision does not serve automatically to stay the effectiveness of any such final order." Thus, FPL argues that the petitioners motion for reconsideration did not automatically stay the effectiveness of the November 5 Order, in particular the 20 day time period provided for filing an amended request for hearing.

We find that the petitioners reasonably believed that their motion for reconsideration would toll the 20 day time period for filing an amended request for hearing. The portion of the November 5 Order which provided the petitioners the opportunity to file an amended petition was issued as procedural rather than final agency action. Thus, the rule cited by FPL, which relates to final orders, does not appear to apply in this instance. Further, if the petitioners' motion for reconsideration were resolved in their favor, filing an amended petition would have been unnecessary.

Therefore, we order that this docket remain open to allow the petitioners the opportunity to amend their request for hearing on Part II of the June 10 Order to specifically allege how the Parkland Line is not in compliance with the NESC and why such non-compliance requires relocation of the line. If an amended petition meeting these requirements is not filed within 20 days of our April 1, 2003, vote on this matter, this docket shall be administratively closed.

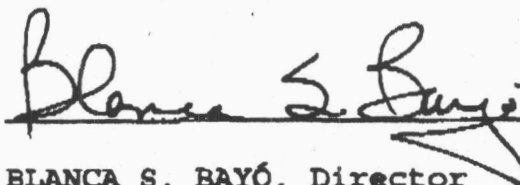
Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that the petitioners' motion for reconsideration of Order No. PSC-02-1516-FOF-EI, issued November 5, 2002, is denied. It is further

ORDERED that if the petitioners do not file an amended petition meeting the requirements of Order No. PSC-02-1516-FOF-EI within 20 days of our April 1, 2003, vote on this matter, this docket shall be administratively closed.

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By ORDER of the Florida Public Service Commission this 15th
day of April, 2003.



BLANCA S. BAYÓ, Director
Division of the Commission Clerk
and Administrative Services

(S E A L)

WCK

NOTICE OF JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

Any party adversely affected by the Commission's final action in this matter may request judicial review by the Florida Supreme Court in the case of an electric, gas or telephone utility or the First District Court of Appeal in the case of a water or wastewater utility by filing a notice of appeal with the Director, Division of the Commission Clerk and Administrative Services, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, and filing a copy of the notice of appeal and the filing fee with the appropriate court. This filing must be completed within thirty (30) days after the issuance of this order, pursuant to Rule 9.110, Florida Rules of Appellate Procedure. The notice of appeal must be in the form specified in Rule 9.900(a), Florida Rules of Appellate Procedure.

STATE OF FLORIDA

COMMISSIONERS:

LILA A. JABER, CHAIRMAN
J. TERRY DEASON
BRAULIO L. BAEZ
RUDOLPH "RUDY" BRADLEY
CHARLES M. DAVIDSON



DIVISION OF THE COMMISSION CLERK &
ADMINISTRATIVE SERVICES
BLANCA S. BAYÓ
DIRECTOR
(850) 413-6770 (CLERK)
(850) 413-6330 (ADMIN)

Public Service Commission

June 24, 2003

Mr. Jose Gutman
12643 Little Palm Lane
Boca Raton, Florida 33428

**Re: Supreme Court Case No. SC03-932 - Amy Gutman, Jeff Leserra, Jose Gutman,
Donna Tennant, and Teresa Badillo vs. Lila A. Jaber, Chairman, et al.
(FPSC Docket No. 010908-EI)**

Dear Mr. Gutman:

Enclosed is an index to the above-referenced docket on appeal. Please look the index over and let me know if you have any questions concerning the contents of the record.

It is our understanding that the record is due to be filed with the Court on or before August 30, 2003.

Sincerely,

A handwritten signature in cursive script that reads "Kay Flynn".

Kay Flynn, Chief
Bureau of Records and Hearing Services

KF:mhl

cc: John T. Butler, Esquire
Marlene Stern, Esquire

INDEX

Amy Gutman, Jeff Leserra, Jose Gutman, Donna Tennant,
and Teresa Badillo

vs.

Lila A. Jaber, Chairman, et al.
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Supreme Court Case No. SC03-932

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STATE OF FLORIDA

COMMISSIONERS:
LILA A. JABER, CHAIRMAN
J. TERRY DEASON
BRAULIO L. BAEZ
RUDOLPH "RUDY" BRADLEY
CHARLES M. DAVIDSON



DIVISION OF THE COMMISSION CLERK &
ADMINISTRATIVE SERVICES
BLANCA S. BAYÓ
DIRECTOR
(850) 413-6770 (CLERK)
(850) 413-6330 (ADMIN)

Public Service Commission

August 26, 2003

Jose Gutman, Pro Se
12643 Little Palm Lane
Boca Raton, Florida 33428

Re: Supreme Court Case No. SC03-932 - Amy Gutman, Jeff Leserra, Jose Gutman, Donna Tennant, and Teresa Badillo vs. Lila A. Jaber, Chairman, et al. (Docket No. 010908-EI)

Dear Mr. Gutman:

I have enclosed an invoice reflecting charges for preparation of the above-referenced record. Please forward a check in the amount indicated, made payable to the Florida Public Service Commission, at your earliest convenience.

Do not hesitate to call if you have any questions concerning this matter.

Sincerely,

A handwritten signature in cursive script that reads "Kay Flynn".

Kay Flynn, Chief
Bureau of Records and Hearing Services

KF:mhl
Enclosure

ORIGINAL
STATE OF FLORIDA

COMMISSIONERS:

LILA A. JABER, CHAIRMAN
J. TERRY DEASON
BRAULIO L. BAEZ
RUDOLPH "RUDY" BRADLEY
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(850) 413-6770 (CLERK)
(850) 413-6330 (ADMIN)

Public Service Commission

August 26, 2003

COMMISSION
CLERK

03 SEP - 5 AM 9:17

RECEIVED-FPSC

Thomas D. Hall, Clerk
Supreme Court of Florida
Supreme Court Building
Tallahassee, Florida 32301

Re: Supreme Court Case No. SC03-932 - Amy Gutman, Jeff Leserra, Jose Gutman, Donna Tennant, and Teresa Badillo vs. Lila A. Jaber, Chairman, et al. (Docket No. 010908-EI)

Dear Mr. Hall:

The record in the above-referenced case, consisting of one binder, is forwarded for filing in the Court. A copy of the final index is enclosed for your use. Please initial and date the copy of this letter to indicate receipt.

Do not hesitate to call me at 413-6744 if you have any questions about the contents of this record.

Sincerely,

RECEIVED
THOMAS D. HALL

AUG 26 2003

CLERK, SUPREME COURT
BY _____

KF

Kay Flynn, Chief
Bureau of Records and Hearing Services

KF:mhl
Enclosure

cc: Jose Gutman, Pro Se
Marlene Stern, Esquire
John T. Butler, Esquire

RECEIVED BY _____

DATE _____

8/26/03

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FLORIDA PUBLIC SERVICE COMMISSION

2540 Shumard Oak Blvd. • Tallahassee, Florida 32399-0850

9330

Date: 8/26/03

To:

Jose Gutman, Pro Se
12643 Little Palm Lane
Boca Raton, Florida 33428

Date Paid _____

Amount Paid _____

Check # _____

☐ Check ☐ Cash

PSC Signature _____

↑ ↑
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all checks or correspondence
regarding this invoice.

Please make checks payable to: FLORIDA PUBLIC SERVICE COMMISSION

| QUANTITY | DESCRIPTION | PRICE | AMOUNT |
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| 1 | Certificate of Director | - | 4.00 |
| TOTAL | | | \$15.80 |

COMMISSIONERS:
LILA A. JABER, CHAIRMAN
J. TERRY DEASON
BRAULIO L. BAEZ
RUDOLPH "RUDY" BRADLEY
CHARLES M. DAVIDSON

STATE OF FLORIDA



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2003 AUG 26 A 11:17
CLERK, SUPREME COURT

Public Service Commission

August 26, 2003

Thomas D. Hall, Clerk
Supreme Court of Florida
Supreme Court Building
Tallahassee, Florida 32301

Re: Supreme Court Case No. SC03-932 - Amy Gutman, Jeff Leserra, Jose Gutman, Donna Tennant, and Teresa Badillo vs. Lila A. Jaber, Chairman, et al. (Docket No. 010908-EI)

Dear Mr. Hall:

The record in the above-referenced case, consisting of one binder, is forwarded for filing in the Court. A copy of the final index is enclosed for your use. Please initial and date the copy of this letter to indicate receipt.

Do not hesitate to call me at 413-6744 if you have any questions about the contents of this record.

Sincerely,

A handwritten signature in cursive script that reads "Kay Flynn".

Kay Flynn, Chief
Bureau of Records and Hearing Services

KF:mhl
Enclosure

cc: Jose Gutman, Pro Se
Marlene Stern, Esquire
John T. Butler, Esquire

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Amy Gutman, Jeff Leserra, Jose Gutman, Donna Tennant,
and Teresa Badillo

vs.

Lila A. Jaber, Chairman, et al.
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Supreme Court Case No. SC03-932

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dkf file

STATE OF FLORIDA

COMMISSIONERS:
LILA A. JABER, CHAIRMAN
J. TERRY DEASON
BRAULIO L. BAEZ
RUDOLPH "RUDY" BRADLEY
CHARLES M. DAVIDSON



DIVISION OF THE COMMISSION CLERK &
ADMINISTRATIVE SERVICES
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Public Service Commission

August 26, 2003

Thomas D. Hall, Clerk
Supreme Court of Florida
Supreme Court Building
Tallahassee, Florida 32301

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