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**Florida
Power**
CORPORATION

JAMES A. MCGEE
SENIOR COUNSEL

June 6, 1997

Ms. Blanca S. Bayó, Director
Division of Records and Reporting
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850

Re: Docket No. **970261-EI**

Dear Ms. Bayó:

Enclosed for filing in the subject docket are an original and fifteen copies of Response of Florida Power Corporation to Motion of Lake Dora Harbour Homeowners Association, Inc. for Establishment of Hearing Schedule.

Please acknowledge your receipt of the above filing on the enclosed copy of this letter and return to the undersigned. Also enclosed is a 3.5 inch diskette containing the above-referenced document in WordPerfect format. Thank you for your assistance in this matter.

Very truly yours,

James A. McGee

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AFA 2
APP
CAF
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EAG 3
LEG 3
LIN 5
OPC
RCH 2
SEC 1
WAS

JAM/kp
Enclosures
cc: Parties of Record

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CERTIFICATE OF SERVICE

Docket No. 970261-EI

I HEREBY CERTIFY that a true and correct copy of Response of Florida Power Corporation to Motion of Lake Dora Harbour Homeowners Association, Inc. for Establishment of Hearing Schedule has been sent by regular U.S. mail to the following individuals on June 6, 1997:

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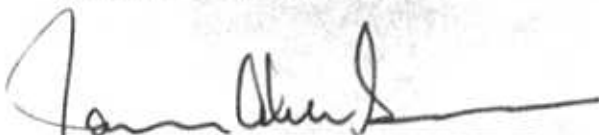
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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

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In re: Review of nuclear outage
at Florida Power Corporation's
Crystal River Unit No. 3.

Docket No. 970261-EI

Submitted for filing:
June 9, 1997

**RESPONSE OF FLORIDA POWER CORPORATION TO
MOTION OF LAKE DORA HARBOUR HOMEOWNERS ASSOCIATION,
INC. FOR ESTABLISHMENT OF HEARING SCHEDULE**

Florida Power Corporation ("Florida Power") submits this response to the Motion of Lake Dora Harbour Homeowners Association, Inc. ("Lake Dora") for Establishment of Hearing Schedule to Allow Reasonable Discovery.

In its Motion, Lake Dora asks this Commission to "consider using the time allowed by the June 26-27, 1997 hearing dates to reconsider the propriety of continuing to pass the increased replacement costs to customers pending a final determination on the utility's prudence" and to "continue the June 26-27 hearings at least to the extent that those hearings purport to decide the ultimate prudence of FPC's actions leading to the extended outage." (Lake Dora Motion, p. 6). Lake Dora requests that the hearing now scheduled for the end of June be rescheduled to "allow parties a minimum of an additional five to six months in which to conduct discovery and prepare their written testimony." (Motion, p. 6). Lake Dora asserts that the current hearing schedule affords Florida Power an undue advantage.

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As the Commission is aware, the current hearing schedule was established by the Commission, not by Florida Power. Despite the hardship of complying with this schedule during the pending outage of the Crystal River 3 nuclear plant (CR3), Florida Power has dutifully met all deadlines established by the Commission and complied with all discovery demands made by the Commission's staff and intervenors. This has included making witnesses available for deposition and other proceedings who are busy managing the outage, and diverting other personnel busy with the outage to assist in providing documentary and written discovery.

Lake Dora implies that prospective intervenors, like Lake Dora, first became aware of the current outage of CR3 after the customer service hearings that have just been concluded, and thus had no meaningful opportunity to intervene and participate in this proceeding before now. This Commission may take notice of the fact, however, that the outage and this proceeding have been highly publicized from the inception. Other parties have intervened and have not requested the continuance of the June hearing. Lake Dora had every opportunity to intervene before now and to participate actively in the proceeding according to the schedule established by this Commission.

This Commission's rules explicitly provide that "Intervenors take the case as they find it." Rule 25-22.039, Florida Administrative Code. Thus, intervenors may not be heard to complain about the schedule of a case they join already in

progress. It follows, under the Commission's rules, that, having decided to intervene in this proceeding at this late date, Lake Dora must adjust to the schedule that the parties and other intervenors have undertaken to meet.

Florida Power submits that the relief that Lake Dora seeks will serve no one's interest and will succeed only in further disrupting Florida Power's efforts to manage and expeditiously conclude the current outage. Under Lake Dora's proposal, the Commission would conduct as many as three hearings on the outage: one in June to reconsider the Commission's decision to permit Florida Power to recover certain costs on an interim basis (pursuant to what Lake Dora concedes to be the Commission's "long-standing fuel adjustment procedure," Motion, p. 6); a second hearing after five or six months of discovery (which may occur at or about the time the outage is concluded); and conceivably a third hearing held presumably long enough after the conclusion of the outage to enable all parties and the Commission sufficient time to consider facts concerning Florida Power's management of the outage. Lake Dora's proposal appears to contemplate that discovery relating to some or all of these hearings will continue during the period of the outage.

The procedure that Lake Dora proposes will force Florida Power to incur additional costs that are perhaps redundant of costs incurred in providing discovery and participating in the proceedings to date, and, more importantly, to continue to divert personnel from managing tasks necessary to get CR3 back in

service. Thus, Lake Dora's proposal may have the unintended and regrettable effect of lengthening the current outage. Plainly, this would not benefit the ratepayers or anyone else. Providing an opportunity to intervenors "to try to make a case of utility mismanagement," as Lake Dora professes it aims to do (Motion, p. 5) -- regardless of the burden on the utility -- should not become the Commission's priority to the detriment of Florida Power's ability to devote necessary resources to get the plant back in service.

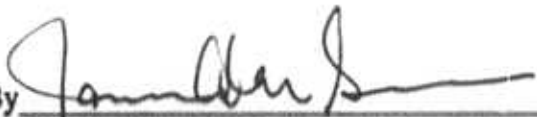
If the Commission desires to grant Lake Dora relief, Florida Power submits that the Commission should not schedule three hearings when one will suffice. Rather, the Commission should cancel the hearing in June and schedule one proceeding on the issue of management imprudence after the conclusion of the outage -- as the Commission has done with every previous outage prudence review -- in order to conserve the resources of the Commission and the parties. To this end, all additional discovery should be postponed until after the outage. As Lake Dora acknowledges, "[i]t is obvious that the Commission cannot decide the issue of whether FPC completed the outage in an expeditious and prudent manner since the outage is far from over." (Motion, p. 5).

If, however, the Commission still wishes to conduct a hearing on prudence issues prior to the conclusion of the outage, then in fairness to all of the parties who have abided by and relied upon the Commission's current schedule, Florida

Power respectfully suggests that the Commission abide by the schedule it has already established.

Respectfully submitted,

OFFICE OF THE GENERAL COUNSEL
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By 

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