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July 16, 2001

FEDERAL EXPRESS

W. Christopher Browder

Blanca S. Bayó, Director Division of Records and Reporting 2540 Shumard Oak Blvd. Tallahassee, Florida 32399-0870

> Re: Docket No. 001148 -EI Filing of Dynegy Inc.'s Renewed Petition To Intervene

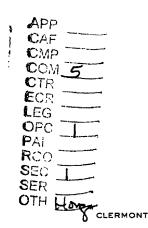
Dear Ms. Bayó:

Enclosed please find the original and seven (7) copies of Dynegy Inc.'s Renewed Petition to Intervene in the above-referenced docket.

Sincerely

W. Christopher Browder GRAY, HARRIS & ROBINSON, P.A.

WCB:gcj Enclosure All individuals on docketing service list cc:





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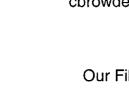
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## **BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

In Re: Review of Florida Power & Light Company's proposed merger with Entergy Corporation, the formation of a Florida transmission company ("Florida transco"), and their effect on FPL's retail rates

Docket No.: 001148-EI

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### **DYNEGY INC.'S RENEWED PETITION TO INTERVENE**

Dynegy Inc. ("Dynegy"), pursuant to Rules 28-106.205 and 25-22.039, Florida

Administrative Code, hereby files this Petition to Intervene, and as grounds therefore, Dynegy

states:

1. The name and address of the Movant is:

Dynegy Inc. c/o Thomas A. Cloud, Esquire Gray, Harris & Robinson, P.A. 301 East Pine Street, Suite 1400 P.O. Box 3068 Orlando, Florida 32802-3068 (407) 843-8880 Phone (407) 244-5690 Facsimile

2. All pleadings, orders and correspondence should be directed to Petitioner's

representatives as follows:

Thomas A. Cloud, Esquire Gray, Harris & Robinson, P.A. 301 East Pine Street, Suite 1400 P.O. Box 3068 Orlando, Florida 32802-3068 (407) 843-8880 Phone (407) 244-5690 Facsimile and

David Cruthirds, Esquire Dynegy Inc. 1000 Louisiana Street, Suite 5800 Houston, Texas 77002-5050 (713) 507-6785 Phone (713) 507-6834 Facsimile

3. Dynegy is a corporation organized and existing under the laws of the State of Illinois, with corporate headquarters located in Houston, Texas. Dynegy is one of the country's leading marketers of energy products and services, occupying a significant position in power generation and marketing. Dynegy markets power in the Florida market.

4. On January 5, 2001, Dynegy filed a petition to intervene in this proceeding. On January 12, 2001, FPL filed a motion in opposition to Dynegy's intervention on the basis that Dynegy did not allege itself to be a retail customer of FPL and by arguing that Dynegy's petition to intervene was an intent to misdirect the proceedings towards issues related to the wholesale power market in Florida. On February 2, 2001, Dynegy filed a motion for leave to file an amended petition along with an amended petition to intervene with co-petitioner, Dynegy Midstream Services, L.P. ("Dynegy Midstream"), a retail customer of FPL. On March 14, 2001, the Florida Public Service Commission (the "Commission") issued an order granting Dynegy Midstream's petition to intervene, but denying Dynegy's request. Dynegy's petition to intervene was without prejudice and the Commission stated that "Should issues subsequently be identified that affect Dynegy's substantial interests, then Dynegy may petition for leave to intervene again."

5. Statement of Substantial Interests. In this docket the Commission will consider, among other issues, the prudence of FPL's participation in "GridFlorida", a regional transmission organization ("RTO"), to be formed by FPL, Florida Power Corporation and Tampa Electric Company (the "Joint Applicants"). GridFlorida (if formed) will own transmission lines throughout the state and will determine the availability of transmission services and the prices a wholesaler must pay to transmit its power through the RTO's transmission system. Therefore, the participation of FPL in GridFlorida will have a direct impact on the wholesale generation market because it will help determine the viability of the wholesale power market within Florida. Dynegy has announced the development of the Palmetto Power generation facility and another un-named merchant power plant in Osceola County, Florida. The operation of both of these projects will rely on the purchase by Dynegy of electric transmission services either from Florida Power & Light ("FPL") or an RTO, if formed by the Joint Applicants. Dynegy, therefore, has a substantial interest in assuring that the structural framework essential to the operation of its future Florida generating assets and to effective wholesale electric competition will be in place in Florida.

6. Some activities associated with the development of GridFlorida have been suspended by the Joint Applicants pending the Commission's actions on the issues in this docket and other related dockets. Therefore, a connection exists between the actions contemplated in this proceeding and the formation of the RTO by the Joint Applicants. The actions by the Commission in this docket regarding FPL's participation in the RTO will affect the types of transmission facilities, transmission services, and transmission system governance that will prevail in the Florida market and thereby affect Dynegy's activities as a wholesale electric

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provider. Therefore, Dynegy's substantial interests are affected by this docket, and Dynegy should be allowed to intervene.

7. At the May 29, 2001, Agenda Conference on this docket, the Commission qualified the purposes of this docket and related dockets, including the Commission's intent to obtain information regarding GridFlorida to enable the Commission to give guidance to the Governor's 2020 Energy Committee and to allow the Joint Applicants to demonstrate the relative costs and benefits of the RTO. Because the Commission docket has aspects of fact finding and policy making, Dynegy's substantial interests are of the type that these proceedings are designed to protect.

8. Dynegy, as a substantial stakeholder in Florida's wholesale energy market, is in substantially the same position as Reliant. Because the Commission has stated its intent to discuss and make factual findings regarding the prudence of FPL's participation in GridFlorida in this docket, Dynegy, like Reliant, should be allowed to intervene.

9. <u>Statement of Disputed Issues of Material Fact</u>. Dynegy believes that the disputed issues of material fact will including the following:

(a) Will the formation and administration of GridFlorida lead to the development of a more competitive wholesale market?

(b) Will the benefits of GridFlorida to ratepayers in the form of a more competitive generation market outweigh its costs?

(c) In view of the factual data presented in this and related proceedings, what policy position should the Commission adopt regarding the formation of GridFlorida?
Dynegy reserves the right to address these and other issues as its interests may require.

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10. <u>Ultimate Facts Alleged</u>. Rate payers will benefit from the creation of a competitive wholesale generation market in Florida. Though a fully competitive wholesale generation market does not presently exist in Florida, the creation of an RTO such as GridFlorida is a necessary step towards establishing such a market.

11. The applicable statute and rules, include, but are not limited to:

Chapter 366, Florida Statutes

Florida Administrative Code, Chapter 25

Florida Administrative Code, Rule 28-106.

WHEREFORE, Dynegy requests that the Florida Public Service Commission grant its

Petition to Intervene with full party status in this docket.

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### **CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by Facsimile to the following parties of record and interested parties, this  $10^{10}$  day of July, 2001:

Florida Power & Light Company William G. Walker, III 9250 West Flagler Street Miami, Florida 33174 Fax No. 850-224-7197

Florida Industrial Power Users Group c/o John W. McWhirter. Jr. 400 N. Tampa Street, Ste 2450 Tampa, Florida 33602 Fax No. 850-222-5606

Robert V. Elias Florida Public Service Commission Division of Legal Services 2540 Shumard Oaks Boulevard Tallahassee, FL 32399-0850 Fax No. 850-413-6250

Andrews & Kurth Law Firm Mark Sundback/Kenneth Wiseman 1701 Pennsylvania Ave., N.W. Suite 300 Washington, DC 20006 Fax No. 202-662-2739

Florida Electric Cooperatives Association, Inc. Michelle Hershel 2916 Apalachee Parkway Tallahassee, FL 32301 Fax No. 850-656-5485 Office of Public Counsel Roger Howe 111 West Madison Street, # 812 Tallahassee, Florida 32399 Fax No. 850-488-4491

McWhirter Reeves Law Firm Vicki Gordon Kaufman Joseph A. McGlothlin 117 South Gadsden Street Tallahassee, Florida 32301 Fax No. 850-222-5606

Matthew M. Childs, Esq. Steel Hector & Davis, LLP 215 South Monroe St. #601 Tallahassee, FL 32301 Fax No. 850-222-8410

Day, Berry Law Firm G. Garfield/R. Knickerbocker/S. Myers CityPlace I Hartford, CT 06103-3499 Fax No. 860-275-0343

Florida Industrial Cogeneration Association c/o Richard Zambo, Esquire 598 S.W. Hidden River Ave. Palm City, FL 34990 Fax No. 561-220-9402 Foley & Lardner Law Firm Thomas J. Maida/N. Wes Strickland 300 E. Park Avenue Tallahassee, FL 32301 Fax No. 850-224-3101

Ausley Law Firm James Beasley/Willis P.O. Box 391 Tallahassee, FL 32302 Fax No. 850-222-7952

CPV Atlantic, Ltd. 145 NW Central Park Plaza, Ste. 101 Port St. Lucie, FL 34986 Fax No. 561-873-4540

Colonial Pipeline Company Jennifer May-Brust, Esq. 945 East Paces Ferry Road Atlanta, GA 30326 Fax No. 404-841-2315

Florida Power Corporation Paul Lewis, Jr. 106 East College Ave., Ste. 800 Tallahassee, FL 32301-7740 Fax No. 850-222-9768

Landers Law Firm Diane K. Kiesling P.O. Box 271 Tallahassee, FL 32302 Fax No. 850-224-5595

Moyle Law Firm Jon C. Moyle/Cathy M. Sellers 118 North Gadsden Street Tallahassee, FL 32301 Fax No. 850-681-8788 Michael Twomey, Esquire Post Office Box 5256 Tallahassee, FL 32314-5256 Fax No. 850-421-8543

Black & Veach Myron Rollins P.O. Box 8405 Kansas City, MO 34114 Fax No. 913-339-2934

Calpine Eastern Thomas W. Kaslow The Pilot House, 2<sup>nd</sup> Floor Boston, MA 02110 Fax No. 617-557-5353

Duke Energy North America Lee E. Barrett 5400 Westheimer Court Houston, TX 77056-5310 Fax No. 713-627-6566

Holland & Knight Bruce May P.O. Drawer 810 Tallahassee, FL 32302-0810 Fax No. 850-224-8832

Legal Environmental Assistance Foundation James J. Presswood, Jr. 1114 Thomasville Rd. Tallahassee, FL 32303-6290 Fax No. 850-224-1275

Reliant Energy Power Generation, Inc. Michael Briggs 801 Pennsylvania Ave., Ste. 620 Washington, DC 20004 Fax No. South Florida Hospital & Healthcare Assoc. Linda Quick 6363 Taft Street Hollywood, FL 33024 Fax No. 954-962-1260 Tampa Electric Company Ms. Angela Llewellyn Regulatory Affairs Tampa, FL 33601-0111 Fax No. 813-228-1770

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301 East Pine Street, Suite 1400 Orlando, Florida 32802-3068 Ph. (407) 843-8880 Fax: (407) 244-5690 Attorneys for Dynegy Midstream

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