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January 17, 2002

VIA FEDERAL EXPRESS

Ms. Blanca S. Bayó, Director
Division of Records and Reporting
Florida Public Service Commission
4075 Esplanade Way, Room 110
Tallahassee, FL 32399-0850

Re: DOCKET NO. 001148-EI

Dear Ms. Bayó:

Enclosed for filing please find the original and fifteen (15) copies of Florida Power & Light Company's Objections to and Requests for Clarification of South Florida Hospital and Healthcare Association's Fifth Set of Interrogatories (Nos. 48-58) and Request for Documents (Nos. 38-53) in the above-referenced dockets. An electronic copy is provided on a diskette.

Very truly yours,

Gabriel E. Nieto

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FPSC-COMMISSION CLERK

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Review of the retail rates of)
Florida Power & Light) Docket No. 001148-EI
Company.) Dated: January 17, 2002
_____)

FLORIDA POWER & LIGHT COMPANY'S
OBJECTIONS TO AND REQUESTS FOR CLARIFICATION OF
SOUTH FLORIDA HOSPITAL AND HEALTHCARE ASSOCIATION'S
FIFTH SET OF INTERROGATORIES (NOS. 48-58)
AND REQUEST FOR DOCUMENTS (NOS. 38-53)

Florida Power & Light Company ("FPL") hereby submits the following objections to and requests for clarification of the South Florida Hospital and Healthcare Association's Fifth Set of Interrogatories and Requests to Produce (the "SFHHA Fifth Request").

I. Preliminary Nature of These Objections

The objections stated herein are preliminary in nature and are made at this time in compliance with the requirement of Order No. PSC-01-2111-PCO-EI that objections be served within ten days of receipt of discovery requests. Should additional grounds for objection be discovered as FPL develops its response, FPL reserves the right to supplement or modify its objections up to the time it serves its responses. Should FPL determine that a protective order is necessary regarding any of the requested information, FPL reserves the right to file a motion with the Commission seeking such an order at the time its response is due.

II. General Objections.

FPL objects to each and every one of the interrogatories and requests for documents that calls for information protected by the attorney-client privilege, the work product doctrine, the accountant-client privilege, the trade secret privilege, or any other applicable privilege or

MIA2001:77289-1

protection afforded by law, whether such privilege or protection appears at the time response is first made or is later determined to be applicable for any reason. FPL in no way intends to waive such privilege or protection.

FPL objects to providing information that is proprietary, confidential business information without provisions in place to protect the confidentiality of the information. FPL has not had sufficient time to determine whether the discovery requests call for the disclosure of confidential information. However, if it so determines, it will either file a motion for protective order requesting confidential classification and procedures for protection or take other actions to protect the confidential information requested. FPL in no way intends to waive claims of confidentiality.

FPL is a large corporation with employees located in many different locations. In the course of its business, FPL creates numerous documents that are not subject to Commission's or other governmental record retention requirements. These documents are kept in numerous locations and frequently are moved from site to site as employees change jobs or as business is reorganized. Therefore, it is possible that not every relevant document may have been consulted in developing FPL's response. Rather, FPL's responses will provide all the information that FPL obtained after a reasonable and diligent search conducted in connection with this discovery request. To the extent that the discovery requests propose to require more, FPL objects on the grounds that compliance would impose an undue burden or expense on FPL.

The SFHHA Fifth Request incorporates by reference the instructions that were included in the SFHHA's First Set of Interrogatories and Request for Production of Documents. FPL objects to those instructions to the extent that they purport to impose upon FPL obligations that

FPL does not have under the law. Without limiting the generality of the foregoing, FPL objects to the following instructions:

Instruction 1. This instruction purports to make the SFHHA Fifth Request continuing in nature. FPL is not obligated to supplement its discovery responses with information acquired after the responses have been served and objects to Instruction 1 to the extent that it seeks to have FPL do so.

Instruction 2. This instruction seeks to have FPL serve a detailed privilege log seven days prior to service of its responses to the SFHHA Fifth Request. FPL is not obligated to serve its privilege log in advance of its responses, and FPL objects to the SFHHA Fifth Request to the extent that it seeks to have FPL do so. Moreover, Instruction 2 asks FPL to include information in the privilege log that it is not required to include, and FPL objects to the instruction to the extent that the SFHHA seeks such information. FPL will provide the information customarily included in a privilege log, as it has done in connection with its responses to the SFHHA's prior sets of discovery requests.

Instruction 4. This instruction seeks to have FPL provide a detailed discussion of the forms in which information is available and the circumstances under which the SFHHA may inspect those forms of the information, whenever the information is not available in the form that the SFHHA has requested. The SFHHA is free to request information in whatever form it wishes, and FPL's obligation begins and ends with providing the information (subject to objections and claims of privilege) in the requested form or advising the SFHHA that the information does not exist in that form. FPL is not obligated to provide a detailed discussion of the form in which information is available and objects to the SFHHA's instruction that FPL provide such a discussion.

Instruction 5. As a counterpart to Instruction 4, the SFHHA seeks to have FPL provide information in the form closest to that requested by the SFHHA, when it is not available in the requested form. Again, FPL's obligation begins and ends with providing information (subject to objections and claims of privilege) in the requested form or advising the SFHHA that the information does not exist in that form. FPL is not obligated to provide the information in some unspecified "form closest to that requested," and FPL objects to the SFHHA's instruction that FPL provide information in such form.

Instruction 6. This instruction could be read as seeking to have FPL provide all work papers, data, calculations and spreadsheets in executable computer program form, even where the originals of such documents in FPL's possession are not in that form. FPL is not obligated to convert documents into forms that do not presently exist. FPL objects to Instruction 6 to the extent that it is requesting FPL to convert documents to executable computer program form.

Instruction 9. This instruction requests both that documents be produced in the manner in which they are ordinarily maintained and that they be identified to the request to which they respond. FPL is obligated to do one or the other, but not both. FPL objects to this instruction to the extent that it seeks both to have FPL produce documents in the manner that they are ordinarily maintained and to identify them with the request to which they respond.

Instruction 10. This instruction seeks to have FPL produce non-responsive documents that happen to be attached to responsive ones. FPL is obligated only to produce responsive documents, and it objects to this instruction to the extent that it seeks production of non-responsive documents. Without limiting the generality of the foregoing, FPL anticipates that it may possess documents responsive to the SFHHA Fourth Request that comprise one discrete portion of a set of materials that are bound together (as in a book, notebook or pamphlet), where

the other portions are non-responsive and, in some instances, may be confidential. Producing the entire bound set of such materials would require FPL to produce non-responsive documents and also could require FPL to make a request for confidential designation that would not otherwise be necessary. In such circumstances, FPL will produce the responsive portion of the bound set of materials, but not the unresponsive portions.

Instruction 11. This instruction seeks to have FPL identify potential witnesses who may testify about the substance of responses to the SFHHA Fourth Request. FPL is not obligated to provide such information either in responding to document production requests or interrogatories in the normal course of discovery, and so FPL objects to this portion of Instruction 11. If the SFHHA wishes FPL to provide information on potential witnesses, it will treat that request as a separate interrogatory and respond to it as such. Instruction 11 also asks FPL to identify the preparer and other information about the preparation of documents where that information does not appear on the face of produced documents. FPL objects to this instruction as extremely burdensome, because it could require an investigation into the history of every unattributed note and work paper FPL produces.

Instruction 12. Similar to Instruction 6, this instruction seeks to have FPL provide all quantitative or computational information in computer database formats in which the information may not currently exist. FPL is not obligated to convert documents into forms that do not presently exist and objects to this instruction to the extent that it is requesting that FPL convert documents to computer database formats.

Instruction 13. This instruction purports to impose limitations on FPL's responding by cross-reference to other responses. FPL does not generally object to the limitations, but notes

that the instruction refers to a “TCPM request,” which is not a defined term in the SFHHA Fifth Request.

Instruction 14. This instruction requests FPL to send its responses to the SFHHA’s counsel and its party representative. FPL objects to this instruction to the extent that it seeks to have produced documents delivered to the SFHHA rather than made available for inspection at FPL’s offices at 9250 West Flagler Street, Miami, Florida during normal business hours.

The SFHHA Fifth Request incorporates by reference the definitions that were included in the SFHHA’s First Set of Interrogatories and Request for Production of Documents. FPL objects to the definitions set forth in the SFHHA Fourth Request to the extent that they purport to impose upon FPL obligations that FPL does not have under the law. Without limiting the generality of the foregoing, FPL objects to the following definitions:

“FPL” This definition purports to include FPL’s parent and its affiliates. The jurisdiction of the Florida Public Service Commission -- and hence the permissible scope of inquiry in this proceeding -- concerning the parent and affiliates of a utility is limited. *See* §§366.05(9) and 366.093(1), Fla. Stat. (2000). Moreover, the scope of discovery from a party is limited to documents within the possession, custody or control of that party. *See, e.g., Southern Bell Telephone and Telegraph Co. v. Deason*, 632 So.2d 1377 (Fla. 1994). FPL objects to the inclusion of FPL’s parent and affiliates within the definition of “FPL” to the extent that it expands the scope of the SFHHA Fourth Request beyond the bounds of the Commission’s jurisdiction and/or the permissible scope of discovery.

“Document” This definition is overbroad in that it would require FPL to produce documents that are not responsive to a request, but that merely have a “factual, contextual or logical nexus” to the request. FPL is not obligated to guess as to such nexuses; it is obligated

only to produce documents responsive to the requests. FPL objects to the definition of “document” to the extent it seeks to have FPL do more.

“Communication” This definition is overbroad for the same reason as the definition of “document.” FPL will respond to requests concerning communications that are responsive to the requests; it will not guess as to the existence of a “factual, contextual or logical nexus” to the requests.

“Substance” This definition would require FPL to explore the “essence, purport or meaning” of a communication or act, in addition to the actual words or actions involved. FPL objects to this attempt to draw it into epistemology and metaphysics.

“Relating” FPL objects that this definition is overbroad, because it defines what is “related” so expansively that FPL cannot meaningfully discern and apply limits to the extent of the SFHHA Fourth Request.

FPL objects to the SFHHA Fifth Request to the extent that it calls for the creation of information, rather than the reporting of presently existing information, as purporting to expand FPL’s obligation under the law.

FPL objects to providing information to the extent that such information is already in the public record before the Florida Public Service Commission and available to the SFHHA through normal procedures.

The interrogatories and requests for documents in the SFHHA Fifth Request refer to the “Company” rather than to “FPL.” The term “Company” is not defined in either the SFHHA First Request’s set of definitions or the SFHHA Fourth Request. FPL will assume that all references in the SFHHA Fourth Request to the “Company” is intended to refer to FPL and will respond accordingly, subject to the above objections to the breadth of FPL’s definition of “FPL.”

FPL incorporates by reference all of the foregoing general objections into each of its specific objections set forth below as though stated therein.

III. **Specific Objections and Request for Clarification**

Request Nos. 39 and 40. FPL objects to Request Nos. 39 and 40 to the extent they seek discovery regarding merger costs that will not be incurred in the test year. Such information is not relevant to this proceeding, and it would be unduly burdensome for FPL to have to compile information relating to such costs. FPL will respond to the extent that there are any such costs that relate to the test year.

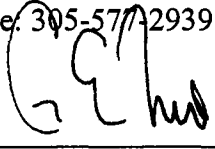
Interrogatory No. 48. FPL objects to Interrogatory No. 48 on the grounds that it is overbroad, unduly burdensome and harassing. The types of detailed year-by-year breakdowns requested by the SFHHA are not maintained by FPL in the ordinary course of business, nor are they required by any regulatory agency. To compile the information requested would require review of hundreds of invoices for each of the five years requested. These invoices are not centrally located; they are maintained in numerous areas of the company. And, many such invoices are in archived storage or have been long-since destroyed pursuant to FPL's document retention policy. Because of these factors, any response would ultimately entail the expenditure of hundreds of man-hours tracking down invoices and reviewing transaction-by-transaction information relating to several different years. Moreover, the question is particularly burdensome, given the fact that the requested information primarily relates to transactions that occurred long before the test year and such information is of, at best, only marginal relevance.

FPL will however, respond to the extent the question relates to revenues for the year 2000. That year is the only period discussed in the FPL interrogatory response referenced in SFHHA Interrogatory No. 48, and upon which Interrogatory No. 48 is based.

Respectfully submitted,

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By: 

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of Florida Power & Light Company's Florida Power & Light Company's Objections to and Request for Clarification of the South Florida Hospital and Healthcare Association's Fifth Set of Interrogatories and Request to Produce has been furnished by United States Mail this 17th day of January, 2002, to the following:

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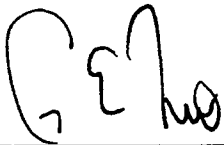
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