



3. This proceeding will address numerous issues concerning Florida Power & Light Company's ("FPL") retail electric rates and related issues, including FPL's business relationships concerning the sale and transportation of natural gas. Specifically identified as issues that will be addressed in this proceeding are: the appropriate regulatory treatment for sales of natural gas and transportation capacity made by FPL to affiliated and unaffiliated companies; the allocation by FPL of costs associated with its sales of natural gas to FPL Energy Services; the appropriate regulatory treatment of FPL Energy Services' revenues and costs associated with sales by FPL Energy Services to customers within FPL's service area; and the consideration of appropriate regulatory treatment of FPL Energy Services' revenues and costs associated with sales by FPL Energy Services to customers outside of FPL's service area. Order No. PSC-02-0102-PCO-EI, Issue Nos. 152 – 156; Docket No. 001148-EI (Order January 16, 2002).

4. NUIE is a corporation organized under the laws of the state of Delaware. NUIE sells natural gas to small and mid-sized retail commercial customers in Florida on an unregulated basis.

5. NUIE competes with FPL Energy Services in selling natural gas service to retail customers in Florida. Upon information and belief, FPL Energy Services enjoys an unauthorized and improper relationship with FPL, because (a) FPL representatives may, while in the full employ of FPL, sell and otherwise market FPL Energy Services' natural gas service to FPL's electric service customers, and (b) FPL may be absorbing losses incurred by FPL Energy Services in its unregulated retail business through fuel adjustment costs, natural gas transportation costs, and other costs, recovered through the electric service revenues paid to FPL by its electric services ratepayers. This unauthorized subsidization by FPL enables FPL Energy Services to underprice its natural gas service rates in violation of Florida law, thereby unfairly and improperly undercutting its competitors' (including NUIE's) natural gas service rates.

6. To participate as a party to this proceeding, an intervenor must demonstrate that its substantial interests will be affected by the proceeding. Specifically, the intervenor must

demonstrate that it will suffer an injury in fact of sufficient immediacy to entitle it to participate in the proceeding, and the injury must be of the type against which the proceeding is designed to protect. Ameristeel Corp. v. Clark, 691 So. 2d 473 (Fla. 1997); Agrico Chemical Co. v. Department of Env'tl Regulation, 406 So. 2d 478 (Fla. 2d DCA 1981). Competitive economic injury may provide a basis for standing to participate in an administrative proceeding if the applicable statutory and regulatory scheme is designed to protect such interest. Boca Raton Mausoleum v. Department of Banking and Finance, 511 So. 2d 1060 (Fla. 1<sup>st</sup> DCA 1987); Florida Medical Center v. Department of Health and Rehabilitative Services, 484 So. 2d 1292, 1294 (Fla. 1<sup>st</sup> DCA 1986).

In this case, NUIE has alleged it is suffering, or will suffer, direct and immediate injury as a result of FPL's unauthorized, improper subsidization of FPL Energy Services' natural gas business, through its electric services business. NUIE has a substantial interest in ensuring that the business relationship between FPL's electric services business and FPL Energy Services' natural gas service business is properly regulated or otherwise addressed pursuant to Florida law, and that interest specifically will be addressed in this proceeding Order No. PSC-02-0102-PCO-EI, Issue Nos. 152 through 156. By the very terms of the issues identified in Order No. PSC-02-0102-PCO-EI, this proceeding will address the proper regulatory or other treatment of the relationship between FPL's electric service and FPL Energy Services' natural gas business. Thus, this proceeding will directly address the type of injury NUIE currently suffers and will continue to suffer as a result of FPL's unauthorized and improper subsidization practices. Accordingly, NUIE's substantial injury is within the zone of interest of this proceeding.

For these reasons, NUIE has demonstrated that its substantial interests will be affected by this proceeding. Accordingly, NUIE is entitled to intervene and participate as a full party to this proceeding.

7. NUIE contends that all issues identified in Commission Order No. PSC-02-0102-PCO-EI (January 16, 2002) are disputed issues of material fact in this proceeding, that any or all

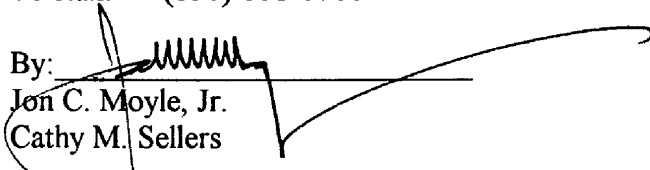
of these issues may be pertinent to NUIE's interests in this proceeding, and that Issue Nos. 152 through 156 specifically are pertinent to NUIE's interests in this proceeding.

8. The statutes and rules that entitle NUIE to relief in this proceeding include, but are not limited to, Chapter 350, Florida Statutes; Chapter 366, Florida Statutes; Florida Administrative Code Chapter 25; and Florida Administrative Code Rule 28-106.

WHEREFORE, NUIE respectfully requests the Florida Public Service Commission to grant its Petition to Intervene and grant it full party status in this proceeding.

Respectfully submitted,

Moyle, Flanigan, Katz, Raymond & Sheehan  
The Perkins House  
118 North Gadsden Street  
Tallahassee, Florida 32301  
Telephone: (850) 681-3828  
Telefax: (850) 681-8788

By:   
Jon C. Moyle, Jr.  
Cathy M. Sellers

Mr. Paul J. Chymiy, Esq.  
Senior Attorney & FERC Counsel  
NUI Corporation  
550 Route 202-206  
Bedminster, New Jersey 07921  
Telephone: (908)719-4228  
Telefax: (908)781-2794

Attorneys for NUI Energy, Inc.

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the foregoing was served by U.S. Mail this 8th day of February, 2002 to the following persons:

Robert V. Elias  
Division of Legal Services  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, FL 32399-0850

Matthew M. Childs  
Steel Hector & Davis  
215 South Monroe St., Suite 601  
Tallahassee, FL 32301

Thomas A. Cloud  
Gray, Harris & Robinson, P.A.  
201 East Pine Street, Suite 1200  
Orlando, Florida 32802-3068

Jack Shreve/J. Roger Howe  
Office of Public Counsel  
c/o Florida Legislature  
111 W. Madison Street  
Room No. 812  
Tallahassee, Florida 32399-1400

John McWhirter, Jr.  
Florida Industrial Power Users Group  
McWhirter Reeves  
400 North Tampa St., Suite 2450  
Tampa, Florida 33601-3350

David L. Cruthirds  
Dynergy, Inc.  
1000 Louisiana Street, Suite 5800  
Houston, TX 7702-5050

Angela Llewellyn  
Post Office Box 111  
Tampa Electric Company  
Tampa, FL 33601

Joseph A. McGlothlin

Vicki Gordon Kaufman  
McWhirter Reeves  
117 S. Gadsden Street  
Tallahassee, FL 32301

Lee L. Willis  
James D. Beasley  
Ausley & McMullen Law Firm  
227 South Calhoun Street  
Tallahassee, FL 32301

Florida Retail Federation  
100 East Jefferson Street  
Tallahassee, FL 32301

Linda Quick  
South Florida Hospital & Healthcare  
6363 Taft Street  
Hollywood, FL 33024

Mark Sundback  
Kenneth Wiseman  
Andrews & Kurth Law Firm  
1701 Pennsylvania Ave., N.W., Suite 300  
Washington, DC 20006

James P. Fama  
LeBoeuf, Lamb, Greene & MacRae, LLP  
1875 Connecticut Ave., NW, Suite 1200  
Washington, DC 20009

Lee Schmudde  
Walt Disney World Co.  
1375 Lake Buena Vista Drive  
Lake Buena Vista, FL 32830

Ron LaFace/Seann M. Frazier  
Greenberg, Traurig Law Firm  
101 East College Avenue  
Tallahassee, FL 32301

Gary L. Sasso/James M. Walls  
Carlton, Fields Law Firm  
Post Office Box 2861  
St. Petersburg, FL 33731

Michael B. Twomey  
Post Office Box 5256  
Tallahassee, FL 32314-5256

Daniel Frank  
Sutherland, Asbill & Brennan, LLP (DC)  
1275 Pennsylvania Ave., NW  
Washington, DC 20004-2415

Bill Bryant, Jr.  
Natalie Futch  
Katz Kutter Law Firm  
12<sup>th</sup> Floor  
106 East College Avenue,  
Tallahassee, FL 32301

Marchris Robinson  
Enron Corporation  
1400 Smith Street  
Houston, TX 77002-7361

Michelle Hershel  
Florida Electrical Cooperatives Ass'n.  
2916 Apalachee Parkway  
Tallahassee, FL 32301

Richard Zambo  
Florida Industrial Cogeneration Ass'n.  
598 SW Hidden River Ave.  
Palm City, FL 34990

Kenneth Hoffman  
Rutledge Ecenia Law Firm  
P.O. Box 551  
Tallahassee, FL 32302-0051

Myron Rollins  
Black & Veatch  
P.O. Box 8405  
Kansas City, MO 64114

Thomas Kaslow  
Calpine Eastern  
The Pilot House,  
Second Floor  
Lewis Wharf  
Boston, MA 02110

Jennifer May-Brust  
Colonial Pipeline Company  
945 East Paces Ferry Road  
Atlanta, GA 30326

G. Garfield  
R. Knickerbocker  
S. Myers  
Day, Berry Law Firm  
CityPlace I  
Hartford, CT 06103-3499

Lee E. Barrett  
Duke Energy North America  
5400 Westheimer Court  
Houston, TX 77056-5310

Leslie Paugh  
Diane Kiesling  
Landers Parsons Law Firm  
310 West College Avenue  
Tallahassee, FL 32301

Beth Bradley  
Mirant Americas Development, Inc.  
1155 Perimeter Center West  
Atlanta GA 30338-5416

Melissa Lavinson  
PG&E National Energy Group  
7500 Old Georgetown Road  
Bethesda, MD 20814

Michael Briggs  
Reliant Energy Power Generation, Inc.  
801 Pennsylvania Avenue,  
Suite 620  
Washington, D.C. 20004

Timothy Woodbury  
Seminole Electric Cooperative, Inc.  
16313 North Dale Mabry Highway  
Tampa, FL 33688-2000

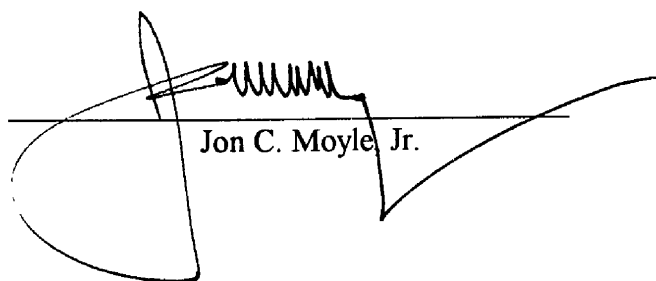
Paul Lewis  
Florida Power Corporation  
106 East College Avenue  
Suite 800  
Tallahassee, FL 32301-7740

Wade Litchfield  
Florida Power & Light Company  
700 Universe Boulevard  
Juno Beach, FL 33408-0420

Frederick M. Bryant  
Florida Municipal Power Agency  
2061-2 Delta Way  
Tallahassee, FL 32303

D. Bruce May  
Holland & Knight, LLP  
P.O. Drawer 810  
Tallahassee, FL 32302-0810

Thomas J. Maida  
Foley & Lardner  
106 East College Avenue, Suite 900  
Tallahassee, FL 32301-7732



Jon C. Moyle, Jr.