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COMMISSION  
CLERK

May 23, 2002

Charles A. Guyton  
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**-VIA HAND DELIVERY-**

Ms. Blanca S. Bayó, Director  
Division of the Commission Clerk and  
Administrative Services  
Florida Public Service Commission  
2540 Shumard Oak Blvd.  
Tallahassee, FL 32399-0850

**Re: Docket Nos. 020262-EI and 020263-EI**

Dear Ms. Bayó:

Enclosed for filing on behalf of Florida Power & Light Company are the original and seven (7) copies of the Response of Florida Power & Light Company to Joint Motion for Order Governing the Handling of Confidential Bid Information and for Procedural Schedule of Calpine Energy Services, L.P., Reliant Energy Power Generation, Inc., and Mirant Corporation.

If there are any questions regarding this transmittal, please contact me at 222-2300.

Very truly yours,



Charles A. Guyton

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cc: All Parties of Record

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Santo Domingo  
FPSC-COMMISSION CLERK

**BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

In re: Petition To Determine Need For )  
an Electrical Power Plant in Martin County )  
by Florida Power & Light Company )  
\_\_\_\_\_ )

Docket No. 020262-EI

In re: Petition To Determine Need For )  
an Electrical Power Plant in Manatee County )  
by Florida Power & Light Company )  
\_\_\_\_\_ )

Docket No. 020263-EI

Dated: May 23, 2002

**RESPONSE OF FLORIDA POWER & LIGHT COMPANY  
TO JOINT MOTION FOR ORDER GOVERNING THE HANDLING OF  
CONFIDENTIAL BID INFORMATION AND FOR PROCEDURAL SCHEDULE  
OF CALPINE ENERGY SERVICES, L.P. ,  
RELIANT ENERGY POWER GENERATION, INC., AND MIRANT CORPORATION**

Florida Power & Light Company ("FPL"), pursuant to Rule 28-106.204, F.A.C., hereby files this Response to the Joint Motion For Order Governing the Handling of Confidential Bid Information and For Procedural Schedule ("Joint Motion") of Calpine Energy Services, L.P. ("Calpine"), Reliant Energy Power Generation, Inc. ("Reliant"), and Mirant Corporation ("Mirant") in these dockets. FPL does not oppose the relief requested in the Joint Motion as it pertains to the proposals submitted by bidders in response to the Supplemental RFP. However, FPL can neither endorse nor oppose the suggested scheduling order included in the Joint Motion for the reasons set forth below.

1. On April 22, 2002, FPL moved for the need determinations in these dockets to be held in abeyance while FPL conducted a supplemental RFP. The Commission granted FPL's emergency motion by Commission Order No. PSC-02-0571-PCO-EI, issued April 26, 2002, and FPL issued a supplemental RFP that same day.

2. As stated in the Joint Motion by the three movants/intervenors, FPL and several intervenors (“Joint Movants”) in these need determination dockets initially sought an order from the prehearing officer approving procedures for handling information asserted to be confidential. That joint motion included an agreement (the “Confidentiality Agreement”) to govern the handling of confidential information between the parties thereto. Between April 22 and April 29, 2002, three non-intervenor bidders (AES Coral (“AES”), Tampa Electric Company (“TECO”) and Progress Ventures, Inc. (“Progress”) also sought protective orders prohibiting FPL from disclosing information designated by them as confidential in their responses to FPL’s 2001 RFP, which was issued prior to FPL’s filing, on March 22, 2002, the two initial need determination petitions in these dockets.

3. By Order No. PSC-02-0611-PCO-EI, the Prehearing Officer granted the Joint Movants’ April 23, 2002, motion for approval of the Confidentiality Agreement, as well as the motions for protective orders sought by AES, TECO, and Progress.

4. On May 16, 2002, Calpine, Reliant and Mirant filed the present 18-page Joint Motion, including a memorandum of law, in which they requested from the prehearing officer in these dockets the following relief:

(1) a procedural order establishing a schedule and procedures for addressing and deciding all entities’ issues relating to the protection of confidential bid information submitted in response to FPL’s April 26 RFP such that those issues will be decided and appropriate procedures in place by July 16, 2002; and

(2) an Order providing that the Confidentiality Agreement is the means for handling bid information asserted to be confidential in any further proceedings in these dockets.

Joint Motion at 17.

5. FPL does not object to the request in the Joint Motion for issuance by the prehearing officer of a procedural order establishing a schedule and procedures for addressing

and deciding all entities' issues relating to the protection of confidential bid information submitted by bidders in response to FPL's supplemental RFP such that those issues will be decided by July 16, 2002. However, FPL can neither endorse nor oppose the suggested procedural schedule at Pages 7-8 of the Joint Motion because the suggested schedule lacks clarity as to the events suggested. For example, the Suggested Schedule refers to a suggested May 24 deadline for "Notice published in Florida Administrative Weekly; actual notice sent by FPL to all entities that obtain FPL's supplemental RFP." Notwithstanding the fact that May 24 is tomorrow, the Joint Motion is deficient in that it merely suggests, in the Conclusion at page 17, that such Notice would concern "proceedings on this motion." Similarly, the Joint Motion contains no hint of the issues that would be the subject of the suggested Oral Argument and Bench Decision.

6. FPL does not object to the issuance of an Order providing that the Confidentiality Agreement is the means for handling bid information submitted by bidders to FPL's Supplemental RFP and asserted to be confidential in any further proceedings in these dockets.

7. FPL also recognizes that some information may be sensitive enough to give rise to other agreements or motions for protective orders, as discussed on Page 6 of the Joint Motion. However, this concern is not referenced at all in the Relief Requested section at Page 17 of the Joint Motion, so FPL's assumption that underlies its positions stated herein is that the Joint Motion does not address such sensitive information but concerns only bid information submitted by bidders to FPL's Supplemental RFP.

8. FPL does not endorse the legal memorandum and legal analysis submitted as part of the Joint Motion.

WHEREFORE, for the reasons and with the reservations set forth herein, FPL has no objection to the relief requested as stated at page 17 of the Joint Motion.

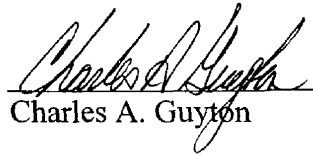
Respectfully submitted,

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Attorneys for Florida Power  
& Light Company

By:

  
Charles A. Guyton

**CERTIFICATE OF SERVICE**  
**Docket Nos. 020262-EI, 020263-EI**

I hereby certify that a copy of the foregoing Response Of Florida Power & Light Company To Joint Motion For Order Governing The Handling Of Confidential Bid Information And For Procedural Schedule Of Calpine Energy Services, L.P., Reliant Energy Power Generation, Inc., And Mirant Corporation was served by hand delivery (\*) or U.S. mail on this 22<sup>nd</sup> day of May, 2002 to the following:

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