

**RUTLEDGE, ECENIA, PURNELL & HOFFMAN**

PROFESSIONAL ASSOCIATION  
ATTORNEYS AND COUNSELORS AT LAW

STEPHEN A. ECENIA  
KENNETH A. HOFFMAN  
THOMAS W. KONRAD  
MICHAEL G. MAIDA  
MARTIN P. McDONNELL  
J. STEPHEN MENTON

POST OFFICE BOX 551, 32302-0551  
215 SOUTH MONROE STREET, SUITE 420  
TALLAHASSEE, FLORIDA 32301-1841

TELEPHONE (850) 681-6788  
TELECOPIER (850) 681-6515

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DAVID PRESCOTT  
HAROLD F. PURNELL  
MARSHA E. RULE  
GARY R. RUTLEDGE  
GOVERNMENTAL CONSULTANTS  
MARGARET A. MENDUNI,  
M. LANE STEPHENS

July 26, 2002

Ms. Blanca S. Bayo, Director  
Division of Records and Reporting  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Betty Easley Conference Center, Room 110  
Tallahassee, Florida 32399-0850

**VIA HAND DELIVERY**

020824-EI

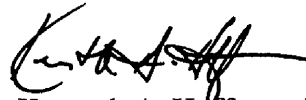
Re: Florida Power & Light Company's Petition for Waiver of Rule 25-6.015(3), Florida Administrative Code

Dear Ms. Bayo:

Enclosed herewith for filing on behalf of Florida Power & Light Company ("FPL") is the original and fifteen copies of FPL's Petition for Waiver of Rule 25-6.015(3), Florida Administrative Code.

Please acknowledge receipt of these documents by stamping the extra copy of this letter "filed" and returning the same to me. Thank you for your assistance with this filing.

Sincerely,



Kenneth A. Hoffman, Esq.

KAH/kl

Enclosures

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DOCUMENT NUMBER - DATE

07843 JUL 26 02

FPSC-COMMISSION CLERK

**BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

In re: Petition of Florida Power & Light )  
Company for waiver of Rule 25-6.015(3), )  
Florida Administrative Code )  
\_\_\_\_\_ )

Docket No. 020824-EI  
Filed: July 26, 2002

**PETITION OF FLORIDA POWER & LIGHT COMPANY  
FOR WAIVER OF RULE 25-6.015(3),  
FLORIDA ADMINISTRATIVE CODE**

Florida Power & Light Company ("FPL"), pursuant to Section 120.542, Florida Statutes (2001), and Rules 25-22.036(4) and 28-104.002, Florida Administrative Code, hereby petitions the Florida Public Service Commission ("Commission") for a waiver of the requirement of Rule 25-6.015(3), Florida Administrative Code, that FPL preserve its records in accordance with the April 1, 1994 version of applicable Federal Energy Regulatory Commission ("FERC") Regulations, Title 18, Subchapter C, Part 125, Code of Federal Regulations, entitled "Preservation of Records of Public Utilities and Licensees." Pursuant to this waiver request, FPL requests authority to maintain and preserve its records in accordance with the updated FERC regulations published in the Federal Register on August 7, 2000 pursuant to the July 27, 2000 FERC Order, discussed infra, which took effect on January 1, 2001. In support of this Petition, FPL states as follows:

1. The name and address of the affected agency is:

Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, Florida 32399-0850

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07843 JUL 26 2002  
FPSC-COMMISSION CLERK

2. FPL's address is 9250 West Flagler Street, Miami, Florida 33174. Correspondence, notices, orders and other documents concerning this Petition should be sent to:

Kenneth A. Hoffman, Esq.  
Rutledge, Ecenia, Purnell & Hoffman, P.A.  
P. O. Box 551  
Tallahassee, Florida 32302  
(850) 681-6788 (Telephone)

William J. Walker, III  
Vice President, Regulatory Affairs  
Florida Power & Light Company  
9250 West Flagler Street  
Miami, Florida 33174  
(305) 552-4981

3. FPL is a public utility subject to Commission jurisdiction pursuant to Chapter 366, Florida Statutes. Pursuant to Sections 366.05(9) and 366.093(1), Florida Statutes, the Commission has the authority to review and secure reasonable access to public utility records. The Commission has exercised that authority by promulgating Rule 25-6.015, Florida Administrative Code, which addresses the requirements imposed on public utilities with respect to the location, access to, retention and preservation of records.

4. Paragraph (3) of Rule 25-6.015 addresses the preservation of records by a public utility and states as follows:

*(3) All records shall be preserved in accordance with the Federal Energy Regulatory Commission's regulations, Title 18, Subchapter C, Part 125, Code of Federal Regulations, entitled "Preservation of Records of Public Utilities and Licensees" as revised, April 1, 1994, which is hereby incorporated by reference into this rule, with the exception of Item 64 (Records of predecessors and former associates) of the Schedule of records and periods of retention contained in Title 18, Subchapter C, Section 125.3, Code of Federal Regulations. Instead, utilities shall retain records of acquired companies until permission for disposal is petitioned for and approved by the Florida Public Service Commission.*

(a) However, all source documents retained as required by Title 18, Subchapter C, Part 125, Code of Federal Regulations shall be maintained in their original form for a minimum of three years, or for any lesser period of time specified for that type of record in Title 18, Subchapter C, Part 125, Code of Federal Regulations, after the date the document was created or received by the utility. This paragraph

does not require the utility to create paper copies of documents where the utility would not otherwise do so in the ordinary course of business. The Commission may waive the requirement that documents be retained in their original form upon a showing by a utility that it employs a storage and retrieval system that consistently produces clear, readable copies that are substantially equivalent to the originals, and clearly reproduces handwritten notations on documents.

(b) The utility shall maintain written procedures governing the conversion of source documents to a storage and retrieval system, which procedures ensure the authenticity of documents and the completeness of records. Records maintained in the storage and retrieval system must be easy to search and easy to read.

(Emphasis supplied).

5. Paragraph (3) of Rule 25-6.015 incorporates the 1994 version of the FERC regulations addressing the preservation of records by public utilities. Under the 1994 version of the FERC regulations, FPL is restricted to the use of paper and microforms for purposes of storage of long term records.

6. Effective January 1, 2001, FERC revised its record keeping regulations set forth in 18 CFR Subchapter C, Part 125. The revised regulations affect retention periods for various types of records, remove the previous restrictions concerning the selection of the media for the storage of records and allow utilities to select storage media other than paper and microforms for long term records preservation. See *Preservation of Records of Public Utilities and Licensees, Natural Gas Companies, and Oil Pipeline Companies*, FERC Docket No. RM99-8-000; Order No. 617 issued July 27, 2000, 2000 WL 1084127 (F.R.) (“July 27, 2000 FERC Order”).

7. FERC amended its record retention regulations to update, reduce and clarify records retention requirements for jurisdictional public utilities and licensees, natural gas companies and oil pipeline companies. The amendments are part of FERC’s on-going program to update and eliminate unnecessary and burdensome record retention requirements. FERC has stated that the changes in

its regulations will significantly reduce the burden of maintaining records for regulated companies. The changes were also initiated to respond to requests made by the Office of Management and Budget and the FERC regulated industry. Specifically, under the January 2001 revised regulations:

(a) FERC has reduced the overall retention requirements significantly from the prior 1994 regulations primarily to decrease the burden of the regulations and record keeping on the industry. Notwithstanding the reduction in overall retention requirements, FERC did increase retention periods for certain records, noting that FERC's audit focus has changed and that data necessary to complete future audits need to be retained for a period long enough to provide sufficient data for review. See Federal Register, Aug. 7, 2000 (Vol. 65, No. 152).

(b) FERC purposely established no specific storage media in the revised regulations to allow flexibility in the selection of storage media without the necessity of obtaining FERC approval. The revised regulations allow public utilities the option to select their own storage media subject to specific conditions that are outlined in the new regulations. In addition, migration to updated media is only necessary for those records that are maintained on media that do not provide an archival feature. As stated in the *July 27, 2000 FERC Order*:

The Commission purposefully established no specific media type to allow companies flexibility in the selection of media which would provide the ability to adapt quickly to changes in technology without the necessity of obtaining Commission approval of the use of media not provided for in the regulations. We do not see this as leading to confusion but rather to efficiencies of storage.... We believe that the revised regulations will provide for efficiencies and savings from reduced retention periods and unrestricted use of storage media.

8. As a regulated public utility, FPL complies with Rule 25-6.015(3) and has a substantial interest in the record retention rules of the Commission. In this case, and as more fully explained below, FPL anticipates significant cost savings through the utilization of electronic record

keeping systems consistent with FERC's new regulations. In addition, the utilization of electronic systems improves the accuracy and efficiency of record keeping and helps to ensure strict compliance with regulatory requirements.

9. In 2001, FPL's Integrated Document Management ("IDM") department made a business decision to implement an electronic reports management system to electronically store and preserve medium and long term corporate records, with the intent of eliminating the production of microfiche reports. This decision was influenced, in part, by the January 2001 FERC record keeping and retention regulations which authorized alternative records storage options. Prior to making the decision, FPL conducted a detailed cost study and operations analysis which indicated that the elimination of the Computer Output Microfiche operation would result in an annual operations and maintenance cost savings of approximately \$100,000. The new electronic reports management system has been purchased and is being implemented. However, because Rule 25-6.015(3) currently incorporates by reference the outdated FERC regulations, IDM is currently operating redundant systems in order to comply with the more restrictive 1994 FERC regulations that remain a part of Rule 25-6.015(3).

10. With the implementation of the electronic reports management system, records retrieval and access to records and reports are immediate. Reports are readily accessed and readable as opposed to the extended, more costly process of requesting microfiche from off-site storage facilities. Through controlled procedures, all corporate reports are indexed and maintained in accordance with records retention schedules.

11. Further, to ensure the life expectancy of records consistent with the new FERC regulations, FPL's electronic reports management system complies with the following FERC requirements:

a. Storage media will have a life expectancy at least equal to the applicable record retention period unless there is a quality transfer from one media to another with no loss of data.

b. Internal control procedures have been implemented to assure the reliability of, and ready access to, data stored on machine readable media. Internal control procedures are documented by a responsible supervisory official.

c. Each transfer of data from one medium to another will be verified for accuracy and documented. Software and hardware required to produce readable records will be retained for the same period the media format is used.

d. At the expiration of the required retention period, records will be appropriately destroyed.

e. Current procedures regarding records lost or prematurely destroyed will remain intact.

12. The Commission may grant a waiver of the reference to and incorporation of the 1994 FERC regulations in Rule 25-6.015(3) upon a showing that the purpose of the underlying statute will be or has been achieved by other means and that the application of the rule would create a substantial hardship or would violate principles of fairness. See Section 120.542(2), Florida Statutes (2001).

13. The statutes underlying Rule 25-6.015(3) are Sections 366.05(9) and 366.093(1) which grant the Commission reasonable access to and authorize the Commission to review all public utility records. The purpose of these two statutes is self evident - - to ensure reasonable access to the Commission and the Commission Staff to all public utility records to ensure the ability of the Commission to exercise its powers under Chapter 366, Florida Statutes. That purpose will not only be met but will be enhanced by full access to and use of FPL's electronic reports management systems. The use of current electronic storage media will, as explained above, enhance efficiencies

in the retrieval, review and storage of records, will ensure accurate compliance with FERC record retention requirements, and is projected to reduce annual O&M expenses.

14. Moreover, application of the rule without the waiver requested herein would create a substantial hardship for FPL and its customers for a number of reasons. First, continued compliance with the outdated FERC regulations would require FPL to continue to unnecessarily operate redundant electronic and microform/paper record retention systems and procedures. Second, a denial of the rule waiver requested herein would unnecessarily increase costs to FPL's customers by eliminating the cost savings that can be captured through the exclusive use of the electronic reports management system. Third, granting the waiver requested herein will bring efficiencies and cost savings to FPL and its customers by allowing FPL to maintain more efficient electronic record keeping procedures and operations for purposes of compliance with state and FERC regulatory requirements. Finally, FPL and its customers will achieve efficiencies through the utilization of an electronic system that reliably and consistently captures and stores FPL documents (state and federal) that are subject to records retention requirements. Further, hardships associated with the costly maintenance and operation of redundant record production and storage systems will be avoided.

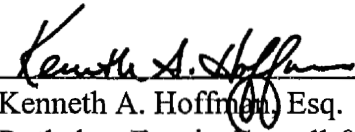
15. The Commission previously has granted requests for waivers of Rule 25-6.015(3) to allow for more efficient records retention and use of advanced technologies. *See*, Order No. PSC-93-1518-FOF-EI issued October 15, 1993 granting FPL's request for waiver to allow the use of microfilm and microfiche documents in lieu of originals for purposes of meeting Commission record retention requirements; and, Order No. PSC-96-1195-FOF-EI issued September 23, 1996 granting a similar request by FPL for a waiver regarding documents copied using an imaging process. Through this Petition, FPL simply requests authority to continue to implement



technological advances in the area of records retention and to insure efficiencies and cost savings by avoiding redundant records retention systems and compliance with inconsistent (state and FERC) records retention requirements.

WHEREFORE, for the foregoing reasons, FPL respectfully petitions the Commission to grant FPL a waiver of that portion of Rule 25-6.015(3) incorporating by reference the April 1, 1994 version of the FERC regulations addressing the preservation of records of public utilities and licensees, and authorize FPL to preserve records in accordance with the recently adopted April 1, 2001 revised FERC regulations addressing preservation of records.<sup>1</sup>

RESPECTFULLY SUBMITTED this 26<sup>th</sup> day of July, 2002

  
Kenneth A. Hoffman, Esq.  
Rutledge, Ecenia, Purnell & Hoffman, P.A.  
P. O. Box 551  
Tallahassee, Florida 32302  
Telephone: 850-681-6788  
Telecopier: 850-681-6515

*Attorneys for Florida Power & Light Company*

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<sup>1</sup>Although not specifically requested through this Petition, FPL suggests that it would be appropriate for the Commission to open a rulemaking docket to amend Rule 25-6.015(3) to substitute the April 1, 2001 revised version of the FERC regulations, Title 18, Subchapter C, Part 125, Code of Federal Regulations, for the existing reference to the April 1, 1994 version of said regulations.