

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

Served: August 12, 2002

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FACT'S OBJECTIONS TO FLORIDA POWER & LIGHT COMPANY'S FIRST REQUEST FOR PRODUCTION OF DOCUMENTS

The Florida Action Coalition Team ("FACT") hereby submits the following objections to Florida Power & Light Company ("FPL") First Request for Production of Documents ("FPL's First Set").

I. Preliminary Nature of These Objections

The objections stated herein are preliminary in nature and are made at this time consistent with procedural Order PSC-02-0992-PCO-EI of the Florida Public Service Commission ("Commission"), which requires a respondent to raise objections or requests for clarification within ten days of receipt of discovery requests. Should additional grounds for objection be discovered as FACT develops its response, FACT reserves the right to supplement or modify its objections up to the time it serves its responses. Should FACT determine that a protective order is necessary regarding any of the requested information, FACT reserves the right to file a motion with the Commission seeking such an order at the time its response is due.

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II. General Objections

These consolidated dockets involve the question whether the Commission should approve FPL's petitions for "need determinations" for new generation at its Martin and Manatee plant sites. As the petitioner in these need determination proceedings, FPL alone carries the affirmative burden of demonstrating that its proposed projects will satisfy the statutory need criteria set forth in Section 403.519, Florida Statutes.

FACT is an intervenor in these consolidated dockets. FACT will not support a witness in these consolidated dockets. FACT, consequently, has no affirmative burden to meet in these proceedings. Nonetheless, FPL has now served extensive and unduly burdensome discovery requests on FACT including these 15 requests to produce documents. FPL's extensive discovery requests are nothing more than a thinly-veiled effort to harass and punish FACT for intervening in these proceedings. FPL is clearly attempting to deflect the focus of these need determinations from the requisite review of FPL's projects to a wholly irrelevant review of FACT. FACT objects to all such discovery requests as irrelevant, immaterial, argumentative, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence.

Additionally, FACT objects to each and every one of the 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 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. FACT in no way intends to waive such privileges or protections.

FACT objects to providing information that is proprietary, confidential business information without provisions in place to protect the confidentiality of the information. FACT has not had sufficient time to make a final determination of whether the discovery requests call for the disclosure of confidential information. However, if it determines that any of the discovery requests would require the disclosure of confidential information, FACT 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. FACT in no way intends to waive claims of confidentiality.

FACT objects to FPL's First Set to the extent that it calls for the creation of information, rather than the reporting of presently existing information, as purporting to expand FACT's obligation under the law.

FACT 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 FPL through normal procedures.

FACT 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

Requests for Production Nos. 1- 15.

FACT objects to each of these requests to produce on the grounds that they each seek information not relevant to this proceeding and not reasonably calculated to lead to evidence admissible in this proceeding. In addition, FACT objects to these requests to produce because they are an attempt to punish and otherwise harass FACT for intervening in these proceedings.

Lastly, FACT objects to these requests to produce to the extent they request documents protected by the attorney-client privilege, the work product doctrine, the accountant-client privilege, or any other applicable privilege or protection afforded by law.

Respectfully submitted this 12th day of August, 2002.

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CERTIFICATE OF SERVICE

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