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ORIGINAL

BY FACSIMILE AND U.S. MAIL

August 23, 2002

Elizabeth Daley, Esquire
Charles Guyton, Esquire
Steel Hector & Davis LLP
215 South Monroe Street
Suite 601
Tallahassee, Florida 32301

RECEIVED-FPSC
AUG 23 PM 3:04
COMMISSION
CLERK

Re: FACT's Motion for Protective Order

Dear Betsy and Charlie:

As reluctant as I am do have to do this, especially given FPL's expressed suggestion that FACT is intentionally delaying the discovery in these dockets, I have to inform you that I am unable to meet my self-imposed deadline of providing you with FACT's motion for protective order by the close of business today. I apologize that I cannot meet my goal of having the motion completed, filed and served today, but as a sole practitioner without research assistance, I simply have not been able to complete and incorporate in my motion all of the research I consider essential to address the multiplicity of issues raised by FPL's discovery demands. Given FPL is clearly trying to remove FACT from this case as the only representative of residential consumers, I want to try to make the motions as thorough as possible. My revised goal now, which I am highly confident that I can meet, is to have the completed motion ready to file by about noon, Monday, August 26, 2002.

With respect to the now noticed deposition of Ernie Bach for Wednesday, August 28, 2002, it is my view that FACT's filing of its motion for protective order Monday will act as an automatic stay on the deposition being taken until such time as final Commission resolution of the motion is had. Accordingly, so that you do not unnecessarily expend any time and effort on the Bach deposition, I want to advise you it is FACT's intention to not make Mr. Bach available until such time as there is either a Commission order compelling his attendance or until we mutually agree to the same.

As I understand the applicable rules, FACT has until the end of the day Wednesday, August 28, 2002, to file and serve its responses to FPL's two motions to compel, which were filed and served on Wednesday, August 21, 2002. Given FACT's opportunity to timely respond to your motions, it appears unlikely, if not impossible, that you will be able to obtain an order compelling the Bach deposition that morning.

FACT letter to Betsy Daley August 23, 2002 wpd

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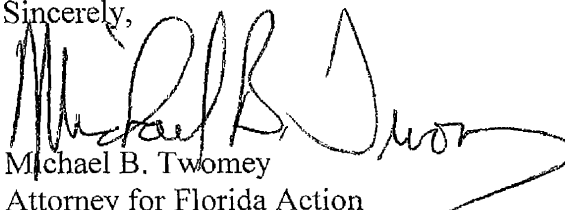
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Lastly, given FPL's assertion that FACT's objections to your discovery request were untimely as a result of being faxed to your firm a couple hours after the verbally agreed upon hour of 5 p.m., we may have to collectively, or individually, reexamine the merits of that agreement, as opposed to merely abiding by the clearly more liberal provisions of Commissioner Deason's order controlling procedure in these dockets.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael B. Twomey". The signature is stylized and written over the printed name.

Michael B. Twomey
Attorney for Florida Action
Coalition Team

cc: Parties of Record
Ernie Bach