

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition to Determine Need for)	Docket No. 040206-EI
Turkey Point Unit 5 Power Plant)	
by Florida Power & Light Company.)	Dated: April 26, 2004
_____)	

**FLORIDA POWER & LIGHT COMPANY'S OBJECTIONS TO
CALPINE ENERGY SERVICES, L.P.'S FIRST REQUEST FOR PRODUCTION
OF DOCUMENTS (NOS. 1 - 71) AND FIRST SET OF INTERROGATORIES
(NOS. 1 - 19)**

Florida Power & Light Company ("FPL") submits the following Objections to the Calpine Energy Services, L.P.'s ("Calpine") First Request for Production of Documents (Nos. 1-71) and First Set of Interrogatories (Nos. 1-19):

I. Preliminary Nature of These Objections

FPL's objections stated herein are preliminary in nature. FPL is furnishing its objections consistent with the time frames set forth in the Commission's Order Establishing Procedure, Order No. PSC-04-0325-PCO-EI, dated March 30, 2004 (the "Order Establishing Procedure"), and Rule 1.190(e), Florida Rules of Civil Procedure. Should additional grounds for objection be discovered as FPL develops its response, FPL reserves the right to supplement or modify its objections up to the time it serves its responses. Should FPL determine that a protective order is necessary regarding any of the information requested of FPL, FPL reserves the right to file a motion with the Commission seeking such an order at the time its response is due.

II. General Objections.

DOCUMENT NUMBER DATE

04880 APR 27 2004

FPSC-COMMUNICATIONS SECTION

FPL objects to each and every request for production of documents or interrogatory filed by Calpine before being granted status as a party in this proceeding. Rules 1.340 and 1.350, Florida Rules of Civil Procedure, and Rule 28-106.206, Florida Administrative Code, provide that only a party may serve discovery on another party. As of the date of these Objections, Calpine has not been granted status as a party. Accordingly, FPL objects to responding to discovery from an entity not a party to the proceeding. FPL is filing these objections as a procedural courtesy and not because the objections are due.

FPL objects to each and every request for documents or interrogatory 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. FPL in no way intends to waive such privilege or protection.

FPL objects to providing information that is proprietary, confidential business information without adequate provisions in place to protect the confidentiality of the information. FPL in no way intends to waive claims of confidentiality. In particular, FPL objects to providing certain commercially sensitive information to a direct competitor.

FPL is a large corporation with employees located in many different locations. In the course of its business, FPL creates numerous documents that are not subject to Florida Public Service Commission or other governmental record retention requirements. These documents are kept in numerous locations and frequently are moved from site to site as employees change jobs or as business is reorganized. Therefore, it is possible that

not every relevant document may have been consulted in developing FPL's response. Rather, these responses provide all the information that FPL obtained after a reasonable and diligent search conducted in connection with this discovery request. To the extent that the discovery requests propose to require more, FPL objects on the grounds that compliance would impose an undue burden or expense on FPL.

FPL objects to any production location other than FPL's General Offices at 9250 West Flagler Street, Miami, Florida.

FPL also objects to these discovery requests to the extent they call for FPL to prepare information in a particular format or perform calculations or analyses not previously prepared or performed as purporting to expand FPL's obligations under applicable law. Further, FPL objects to these interrogatories to the extent they purport to require FPL to conduct an analysis or create information not prepared by FPL in the normal course of business. FPL will comply with its obligations under the applicable rules of procedure.

FPL 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 Calpine through normal procedures.

FPL notes that the cumulative effect of the discovery requests in these proceedings make Calpine's requests for irrelevant or marginally relevant information or documents overly burdensome. Even if an individual request on its own may not seem overly burdensome, the fact that FPL is responding to numerous requests with overlapping expedited deadlines creates a cumulative burden on FPL, which must be

taken into account when looking at whether responding to a discovery request is overly burdensome.

Numerous of the discovery requests are not expressly limited to data or analyses performed in connection with the evaluation of the Turkey Point Unit 5 project that is the subject of this docket. FPL assumes that, unless expressly stated to the contrary, Calpine's discovery requests are intended to refer to data or analyses related to the Turkey Point Unit 5 project and objects to the extent that any such discovery requests are not so limited, on the grounds that they would be overly broad, irrelevant and unduly burdensome.

FPL objects to each discovery request and any definitions and instructions that purport to expand FPL's obligations under applicable law. FPL objects to the definitions set forth in the Calpine's First Request For Production of Documents to the extent that they purport to impose upon FPL obligations that FPL does not have under the law. FPL objects to these "definitions" to the extent they do not comply with the Florida Rules of Civil Procedure regarding discovery or the Commission's Order Establishing Procedure.

In addition, FPL reserves its right to count interrogatories and their sub-parts (as permitted under the applicable rules of procedure) in determining whether it is obligated to respond to additional interrogatories served by any party.

FPL objects to each discovery request to the extent that the information requested constitutes "trade secrets" which are privileged pursuant to Section 90.506, Florida Statutes.

FPL reserves the right to file specific objections to Calpine's First Set of Interrogatories and First Request for Production of Documents in the event Calpine is

granted party status in these proceedings and to the extent that these requests are deemed properly served.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of Florida Power & Light Company's Objections to Calpine's First Request for Production of Documents (Nos. 1-71) and First Set of Interrogatories (Nos. 1-19) has been furnished electronically (*) and by United States Mail (**) this 26 day of April, 2004, to the following:

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- + Interested Person
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- +++ Not Yet a Party (courtesy copy)

By:  
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