

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition to Determine Need for)
Turkey Point Unit 5 Power Plant
by Florida Power & Light Company.

Docket No. 040206-E1
Dated: May 3, 2004

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**CALPINE ENERGY SERVICES, L.P.'S OBJECTIONS TO
FLORIDA POWER & LIGHT COMPANY'S FIRST REQUEST FOR PRODUCTION
OF DOCUMENTS (NOS. 1 -20) AND FIRST SET OF INTERROGATORIES
(NOS. 1 -50)**

Calpine Energy Services, L.P.'s ("Calpine") submits the following Objections to Florida Power & Light's ("FPL") First Request for Production of Documents (Nos. 1-20) and First Set of Interrogatories (Nos. 1-50):

I. Preliminary Nature of These Objections

Calpine's objections stated herein are preliminary in nature. Calpine makes these objections consistent with the time frames set forth in the Commission's Order Establishing Procedure, Order No. PSC-04-0325-PCO-E1, 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, Calpine reserves the right to supplement or modify its objections. Should Calpine determine that a protective order is necessary regarding any of the information requested of it, Calpine reserves the

right to file a motion with the Commission seeking such an order.

FPL's Discovery is Improper, a Nullity and Must Be Properly Served

As a initial matter, FPL's discovery was not properly served and thus need not be answered.

The discovery sent to Calpine was signed by an attorney, Susan Clark, who is with the law firm of Radey, Thomas, Yon and Clark, P.A. Neither Ms. Clark nor her law firm has appeared in the case. Calpine surely is not obligated to respond to discovery served by a lawyer who is not involved with the case. Additionally, Ms. Clark appears to have signed the discovery on behalf of at least one

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lawyer who is not a member of the Florida Bar and has not been admitted pro hac vice in this proceeding. While this attorney has registered as “authorized house counsel” pursuant to Florida Bar Rule 17, it appears said counsel has not complied with Florida Bar Rule 17-1.3(3) as it relates to participation in this proceeding. This failure bolsters Calpine’s argument that the discovery served by Ms. Clark is akin to a legal nullity. Additional preliminary objections of Calpine are set forth below:

II. General Objections

Calpine 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. Calpine in no way intends to waive such privilege or protection.

Calpine objects to providing information that is proprietary, confidential business information without adequate provisions in place to protect the confidentiality of the information. Calpine in no way intends to waive claims of confidentiality.

Calpine is a large corporation with employees located in many different locations. 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 Calpine's response, if one is ordered. Rather, these responses provide all the information that Calpine 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, Calpine objects on the grounds that compliance would impose an undue burden or expense.

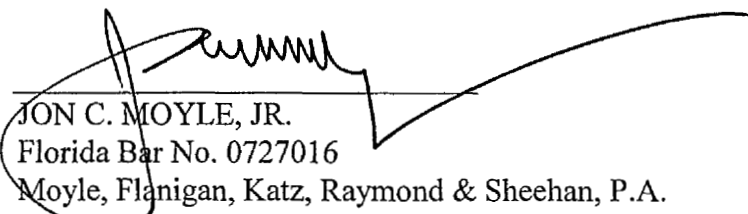
Calpine also objects to these discovery requests to the extent they call for Calpine to prepare information in a particular format or perform calculations or analyses not previously prepared or performed as purporting to expand Calpine's obligations under applicable law. Further, Calpine objects to these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

Calpine objects to providing information to the extent that such information is already in the public record before the Florida Public Service Commission, the Securities and Exchange Commission or other entity and requested information is available to FPL through normal procedures.

Calpine objects to requests that are overbroad, seek information not relevant to the proceeding, or are overly broad. Calpine objects to each discovery request and any definitions and instructions that purport to expand Calpine's obligations under applicable law. Calpine objects to the definitions set forth in the FPL's First Request For Production of Documents/Interrogatories to the extent that they purport to impose upon Calpine obligations that Calpine does not have under the law. Calpine 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.

Calpine 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. Calpine 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 FPL's First Set of Interrogatories and First Request for Production of Documents in the event FPL fails to reserve its discovery properly or Calpine is ordered to respond to discovery, notwithstanding FPL's glaring error in serving discovery. Calpine

also objects to the extent that FPL's discovery seeks to impose an obligation on Calpine to respond on behalf of subsidiaries, affiliates, or other persons that are not parties to this case. Such requests, besides being overly broad, are unduly burdensome, oppressive or not permitted by applicable discovery rules.



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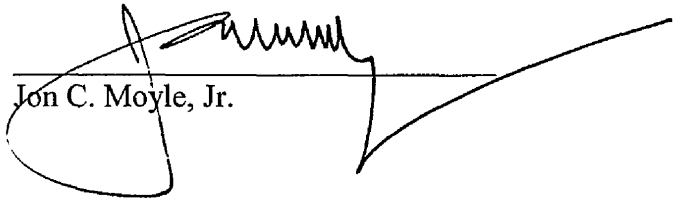
CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy was served by hand-delivery this 3rd day of May, 2004, on Jennifer Brubaker, Esq., Florida Public Service Commission, 2540 Shumard Oak Boulevard, Tallahassee, FL 32399-9850; Charles A. Guyton, Esq., Steel Hector & Davis, LLP, 215 South Monroe Street, Suite 601, Tallahassee, FL 32301, and Mr. Bill Walker and Ms. Lynne Adams, Florida Power & Light Company, 215 South Monroe Street, Suite 810, Tallahassee, Florida 32301-1859; and by U.S. Mail to the following persons:

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