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July 21, 2004

BY HAND DELIVERY

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COMMISSION CLERK

Blanca Bayo, Director
Division of the Commission Clerk
and Administrative Services
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850

Re: Joint Petition for Determination of Need for the Okeelanta Cogeneration Plant Expansion Project (new docket)

Dear Ms. Bayo:

Enclosed for filing are the original and fifteen copies of the following documents in support of the joint petition for determination of need for the Okeelanta Cogeneration Plant Expansion Project, which is being filed jointly by Florida Power & Light Company and New Hope Power Partnership.

07939-04 1. Joint Petition for Determination of Need for an Electrical Power Plant;

07940-04 2. Direct Testimony and Exhibit of Gustavo R. Cepero; and

07941-04 3. Direct Testimony and Exhibit of Steven Scroggs.

I will appreciate your confirming receipt of these filings by stamping the attached copies thereof and returning same to my attention.

As always, my thanks to you and to your professional Staff for their kind and courteous assistance. If you have any questions, please give me a call at (850)681-0311.

Cordially yours,

Robert Scheffel Wright

Enclosures

CMP ____
COM ____
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GCL ____
OPC ____
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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Petition for Determination of Need for Expansion of an Electrical Cogeneration Power Plant in Palm Beach County by Florida Power & Light Company and New Hope Power Partnership	)	DOCKET NO. 040766 -EI FILED: JULY 21, 2004

JOINT PETITION FOR DETERMINATION OF NEED FOR AN ELECTRICAL POWER PLANT

New Hope Power Partnership ("New Hope") and Florida Power & Light Company ("FPL"), pursuant to Rules 25-22.080-.081 and Chapter 28-106, Florida Administrative Code ("F.A.C."), hereby file this Joint Petition for Determination of Need for an Electrical Power Plant (the "Petition"). By this Petition, New Hope and FPL respectfully request the Commission's affirmative determination of need for the Okeelanta Cogeneration Plant Expansion Project (the "Okeelanta Project" or the "Project"). This Petition is filed pursuant to, and New Hope and FPL are entitled to the relief requested herein by, the Florida Electrical Power Plant Siting Act, Sections 403.501 - 403.518, Florida Statutes[1] (the "Siting Act"), Section 403.519, Florida Statutes, and Rules 25-22.080-.081, F.A.C. In summary, the Project is an expansion of an existing, 74.9 megawatt biomass-fueled cogeneration plant that generates electricity and steam from the combustion of biomass fuels, including bagasse, land-clearing debris (i.e., whole trees and shrubs), yard waste, and other clean wood waste. The Project is expected to generate between 150,000 megawatt-hours ("MWH") and 190,000 MWH of net electrical energy per year, which New Hope will sell at

[1] All references to the Florida Statutes herein are to the 2003 edition thereof.

wholesale primarily to FPL and to other Florida utilities with responsibility for serving retail customers. New Hope and FPL have executed a power purchase agreement (the "PPA") pursuant to which New Hope will sell 70 percent of the Project's energy output to FPL at a one percent discount from FPL's avoided cost calculated pursuant to Commission Rule 25-17.0825(2), F.A.C., for an initial period of five years with mutual renewal options for up to an additional fifteen years. The Project is projected to achieve commercial operation status by June 2006.

PROCEDURAL BACKGROUND AND INFORMATION

1. The name and address of Petitioner New Hope Power Partnership is as follows:

New Hope Power Partnership
ATTN: Gus Cepero, Vice President
21250 U.S. Highway 27 South
South Bay, Florida 33493.

2. The name and address of Petitioner Florida Power & Light Company is as follows:

Florida Power & Light Company
9250 West Flagler Street
Miami, Florida 33102.

3. The names and addresses of FPL's representatives designated to receive all pleadings, motions, orders, and other documents and communications directed to Petitioner FPL are as follows:

William G. Walker, III
Vice President
Florida Power & Light Co.
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Facsimile (850) 521-3939

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Tallahassee, FL 32301-1859
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4. The names and addresses of New Hope's representatives designated to receive all pleadings, motions, orders, and other documents and communications directed to Petitioner New Hope Power Partnership are as follows:

Robert Scheffel Wright
John T. LaVia, III
Landers & Parsons, P.A.
310 West College Avenue (ZIP 32301)
Post Office Box 271
Tallahassee, Florida 32302

with a courtesy copy to:

Gus Cepero, Vice President
New Hope Power Partnership
21250 U.S. Highway 27 South
South Bay, Florida 33493.

5. The name and address of the agency affected by this Petition is:

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

I. THE PRIMARILY AFFECTED UTILITY

6. FPL is a Florida corporation with headquarters at 700 Universe Boulevard, Juno Beach, Florida, 33408. FPL is a utility as defined in Section 366.82(1), Florida Statutes, and is an applicant as defined in Section 403.503(4), for purposes of Section 403.519, Florida Statutes. FPL is the primarily affected utility within the meaning of Rule 25-22.081, F.A.C.

7. FPL serves more than 4 million retail customers throughout Florida. Its service area comprises more than 27,500 square miles in 35 Florida counties. Approximately 8.1 million people live within FPL's service area. During 2003, 53 percent of FPL's retail kilowatt-hour ("kWh") sales were to residential customers, 41 percent were to commercial customers, 4 percent were to industrial customers, and 2 percent were to public street and highway lighting (includes traffic signal and street lighting) and other customers.

8. FPL is charged with serving its existing customers, as well as new customers that locate in its service territory. FPL forecasts continued growth of customers in its service territory. The population in its service territory is expected to grow to 8.6 million by 2007. FPL projects that its annualized retail customer growth from 2003 to 2007 will be 1.6 percent and that its Net Energy for Load ("NEL") will grow at an annualized rate of 2.2 percent for that period.

9. In 2003, FPL experienced a coincident peak demand of 19,668 MW (summer) and 20,190 MW (winter) and a NEL of 108,391 Gigawatt-hours

("GWH"). For 2007, FPL projects to experience summer peak demand of 21,851 MW (2007), and winter peak demand of 21,605 MW (2007), before accounting for demand-side management ("DSM") programs. FPL expects NEL to grow from its present level to 118,430 GWH in 2007.

10. FPL is part of a nationwide interconnected power network. It has multiple points of interconnection with other utilities that enable power to be exchanged among utilities. The FPL transmission system includes more than 1,105 circuit-miles of 500 kilovolt (kV) and 2,744 circuit-miles of 230 kV transmission lines, 2,530 circuit miles of lower voltage transmission lines, and 526 substations.

11. FPL presently meets its resource needs through a mix of conventional and nuclear generating units, purchased power and DSM resources. FPL is projecting a total resource capability of 22,689 MW in the summer of 2004. This capability includes four nuclear steam units (2,939 total summer MW), three coal units (912 summer MW), nine CC units (5,684 summer MW), 17 fossil-fueled steam units (7,031 summer MW), 52 simple-cycle CTs (2,564 summer MW), five diesel units (12 summer MW), and long-term firm-capacity contracts from two utilities (1,312 MW) and seven qualifying facilities (880 total MW). Additionally, FPL has short-term firm capacity contracts with 6 entities (1,355 MW) for the summer of 2004.

12. New Hope, the co-applicant for the Commission's determination of need in this proceeding, is a Florida partnership and a qualifying facility within the meaning of the Commission's rules and also within the meaning of the rules of the Federal Energy Regulatory Commission ("FERC") implementing the Public Utility Regulatory Policies Act of 1978 ("PURPA"),[2] which rules are

[2] 16 U.S.C. § 2601 et seq.

found at 18 CFR § 292.101-602. New Hope owns the Okeelanta Cogeneration Plant ("Plant" or "Okeelanta Plant"), which is presently both a qualifying cogeneration facility and a qualifying small power production facility. Because the Project will increase the existing Plant's output to more than 80 MW, after the Project is complete, the Plant will be only a qualifying cogeneration facility. By virtue of the power purchase agreement executed between FPL and New Hope, discussed in more detail below, New Hope is a proper co-applicant for the Commission's determination of need within the meaning of Nassau Power Corp. v. Deason, 641 So. 2d 396, 399 (Fla. 1994), where the Florida Supreme Court stated that "[t]he non-utility generator will be considered a joint applicant with the utility with which it has contracted."

II. THE PROPOSED ELECTRICAL POWER PLANT

A. The Existing Okeelanta Cogeneration Plant

13. The existing Okeelanta Cogeneration Plant is an electric cogeneration facility that burns biomass fuel to generate electricity and steam. The Plant's current capacity is 74.9 MW (net output to the Florida grid). Approximately 98 to 99 percent of the total thermal input to the Plant is biomass fuel: bagasse, land-clearing debris (whole trees and shrubs), yard waste, and other wood waste. The remaining 1 to 2 percent is natural gas and No. 2 fuel oil.

14. The Plant is a qualifying cogeneration facility and a qualifying small power production facility within the meaning of ("PURPA") and the rules of the FERC promulgated pursuant to PURPA. Following the completion of the Project, the Plant will continue to be a qualifying cogeneration facility pursuant to PURPA and the FERC's rules, but will no longer be a qualifying small power production facility under those rules because of an 80 MW capacity limitation

applicable to small power production facilities. As a cogeneration facility fired almost entirely by biomass fuel, the Plant will continue to serve the goals and policy purposes of both PURPA and the Florida Energy Efficiency and Conservation Act ("FEECA"), Sections 366.80 through 366.85 and 403.519, Florida Statutes.

15. The Plant supplies the Okeelanta sugar mill with process steam during the sugar cane grinding season, which is approximately October through March. The Plant also supplies the Okeelanta sugar refinery with process steam on a year-round basis. Electricity that is not used to serve ancillary electrical loads within the Plant itself is sold at wholesale to utilities for resale to their retail consumers or to other utilities. New Hope does not make any retail sales of electricity. Over the past six years, the Plant has generated approximately 2,100,000 net megawatt-hours ("MWH") for sale into the wholesale power market; more than 98 percent of this power has been sold to Florida utilities. All of the Plant's output since the beginning of 1999 has been sold to Florida utilities. The majority of those sales (68 percent) have been made to FPL.

16. The Plant consists of handling and storage facilities for the Plant's biomass fuel, three steam boilers, one stream turbine electric generator ("STG"), a condenser, a mechanical draft cooling tower, and a switchyard through which the electric generating equipment is connected to the Florida bulk power supply grid via an interconnection with FPL's transmission system at the Okeelanta Substation.

B. The Proposed Project

17. The Okeelanta Project consists of adding an additional STG to the Plant to take advantage of additional steam that is available to produce electricity. The new STG will have a gross nameplate capacity of approximately 70 MW and

is expected to produce a net peak output of approximately 65 MW, bringing the Plant's net total capacity, including the Project, to approximately 140 MW. The projected in-service date of the Project is May 31, 2006.

C. Projected Operations and Power Sales

18. New Hope projects that the Project will produce between 150,000 MWH and 190,000 MWH of net electrical energy per year. Most of this energy will be produced during the summer months (approximately April through September) when the sugar mill is not processing sugar cane. However, some energy will be produced during the winter months.

19. FPL and New Hope executed the PPA on July 19, 2004, and FPL is seeking the Commission's approval of the PPA pursuant to a separate petition filed contemporaneously with this petition for determination of need. Pursuant to the PPA, New Hope will sell FPL 70 percent of the Project's energy output at a one percent discount from FPL's avoided cost calculated pursuant to Commission Rule 25-17.0825(2), F.A.C. The PPA has an initial term of five years with mutual renewal options for up to an additional fifteen years.

20. Like the existing Plant, the Project will be electrically interconnected to the Peninsular Florida bulk transmission grid at FPL's Okeelanta Substation, which is located adjacent to and immediately north of the Plant.

III. CONDITIONS INDICATING A NEED FOR THE PROPOSED PROJECT

21. The specific conditions that indicate a need for the Project are FPL's need for additional cost-effective energy supplies, Peninsular Florida's need for additional cost-effective electric generating resources, and Florida's general, statewide, legislatively recognized needs to promote the use of renewable

resources, to promote the use of cogeneration technologies, and to conserve the use of expensive primary energy resources.

22. As noted above, FPL's Net Energy for Load is expected to grow significantly over FPL's planning horizon. The availability of 70 percent of the Project's electrical energy at a discount from FPL's incremental cost of generating or purchasing such energy will meet the needs of FPL and FPL's customers for adequate electricity at a reasonable cost and will necessarily be the most cost-effective alternative for meeting those needs.

23. The Commission has on several occasions determined need for power plants on the basis of economic need and displacement of oil as a generating fuel. For example, in Docket No. 810045-EU, FPL and the Jacksonville Electric Authority ("JEA") proposed the St. John's River Power Park project, which consisted of two coal-fired units having projected in-service dates of 1985 and 1987. The Commission determined that the capacity of the proposed units would not be required for reliability purposes until at least 1991. However, the Commission granted the petitioners' determination of need, stating as follows:

> We construe the "need for power" to encompass several aspects of need . . . [including] the socio-economic need of reducing the consumption of imported oil in the State of Florida.

In Re: JEA/FPL's Application of Need for St. John's River Power Park Units 1 and 2 and Related Facilities, Docket No. 810045-EU (Fla. Pub. Serv. Comm'n, June 26, 1981), Order No. 10108 at 2. Similarly, in In Re: Petition of Orlando Utilities Commission for Determination of Need for Stanton Unit 1,[3] OUC

[3] Docket No. 810180-EU (Fla. Pub. Serv. Comm'n, Oct. 2, 1981), Order No. 10320 at 3-4.

proposed an in-service date of November 1986 for its Stanton 1 coal-fired unit. In Order No. 10320, the Commission concluded that the capacity of the proposed unit would not be needed for reliability purposes "during the 1980's." Order No. 10320 at 3. However, the Commission again examined "the socio-economic need of reducing the State's consumption of imported oil." The Commission reasoned that OUC's project " . . . will provide significant economic benefits for peninsular Florida in terms of supplying an alternative to oil-fired capacity generation." The Commission concluded that the unit would help enable electric utilities to meet and surpass the Commission's goal of reducing statewide oil consumption. Again, in the proceeding on Tampa Electric Company's ("TECO") petition for determination of need for its Big Bend 4 generating unit, the Commission recognized the socio-economic benefits of reducing Florida's consumption of imported oil as a basis for granting a determination of need. In Re: Application for Certification of Tampa Electric Company's Proposed 417 Megawatt Net Coal-Fired Big Bend Unit No. 4, Docket No. 800595-EU (Fla. Pub. Serv. Comm'n, Jan. 16, 1981), Order No. 9749 at 4.

24. Here, the Commission should grant the requested determination of need because the Project will (a) provide power to FPL and FPL's customers at a cost below what it would otherwise cost FPL to generate or purchase such power and (b) displace the use of various non-renewable fossil fuels (primarily oil and natural gas) with renewable biomass fuels to generate between 150,000 MWH and 190,000 MWH per year for Florida's energy supply.

25. The Project is also consistent with strategic factors that may be considered when procuring power supply resources or building a power plant, not only from New Hope's and FPL's perspectives but also from the perspective of the State as a whole. The Project will be fueled by domestically produced biomass fuels rather than by imported fuel that may be subject to interruption due

to political or other events. The Project also furthers the Commission's and the Legislature's policy of promoting the use of renewable fuels to generate electricity. The Project has an electrically favorable geographic location and will also contribute to the geographic diversity of the location of generating resources in Florida.

IV. COMMITMENT OF THE PROJECT'S OUTPUT TO MEETING THE NEEDS OF FPL AND FPL's CUSTOMERS

26. Under the PPA between FPL and New Hope, New Hope will sell 70 percent of the electrical energy output of the Project to FPL at 99 percent of FPL's avoided (as-available) energy cost for a minimum of five years.[4] Based on historical experience and trends, New Hope expects to sell the additional energy output of the Project to FPL and other Florida utilities. Thus, most if not all of the electrical energy output of the Project will be sold to Florida utilities serving retail customers.

V. GENERATING AND NON-GENERATING ALTERNATIVES TO THE PROPOSED POWER PLANT

A. Generating Alternatives

27. By virtue of the inherent nature of the Project, there are no viable generating alternatives to the Project. Since FPL will purchase 70 percent of the Project's output at prices below its avoided cost, FPL, by definition, cannot produce or purchase the energy to be supplied under the PPA as cost-effectively as it can buy the energy from New Hope.

[4] Some limited firm energy sales associated with short-term, "opportunity"-type capacity sales may be made to other Florida utilities, but such sales will necessarily be limited given the commitment of 70 percent of the Project's energy output to FPL.

28. The Project consists of the addition of a single steam turbine generator, including auxiliary equipment and systems, to an existing cogeneration power plant. The three steam boilers of the existing Plant will remain unchanged. Currently, under certain operating conditions, there is more steam capability in the existing boilers than there is generating capability. The most feasible way to take advantage of the additional steam capability available from these boilers is to add the proposed STG and convert such steam energy into useful electrical energy for sale at wholesale to Florida retail-serving utilities. There is no other viable generating alternative that can accomplish this.

B. Non-Generating Alternatives

29. There are no viable non-generating alternatives to the Project. Again, from the perspective of FPL and FPL's customers, the availability of additional electrical energy at prices below FPL's incremental cost of generating or producing such power is necessarily cost-effective. Because the Project's output will be purchased and sold at the margin, any energy conservation or DSM effects will already have reduced FPL's (or other purchasing utility's) incremental or marginal generating costs, and there are thus no other non-generating alternatives to the Project's output.

C. Energy Conservation

30. By its inherent nature as a renewable-fueled cogeneration power plant, the Project is itself an effective energy conservation measure in that it will conserve expensive, imported (into Florida) primary fuels. Moreover, the Project is specifically consistent with the goals and purposes articulated by the Florida Legislature in FEECA, of which Section 403.519 is a part, in that it will:

a. be a renewable-fueled energy resource;

b. be a cogeneration facility;

c. conserve expensive resources, particularly petroleum fuels.

All of these goals and purposes are specifically favored by Section 366.81, Florida Statutes -- which, like the Commission's need determination statute, Section 403.519, Florida Statutes, is a substantive part of FEECA -- and the Project promotes and satisfies all three. First, the Project is fueled by renewable, biomass fuels of Florida origin. Second, it is an efficient cogeneration facility contributing to the overall efficiency of electricity production in Florida. Third, by virtue of its biomass fuel, the electricity generated by the Project will displace exclusively non-renewable fossil fuels, i.e., coal, oil, and gas, all or virtually all of which are imported into Florida from other states or other countries. In approximate terms, assuming an average heat rate of 10,000 Btu per kilowatt-hour for the marginal generating resource in Peninsular Florida, generation from the Project will save approximately 1.63 Trillion Btu per year of primary, non-renewable fossil fuel resources, or about 265,000 barrels of oil equivalent per year, that would otherwise be used to generate electricity for consumption in Florida. Accordingly, the Project is a significant energy conservation measure that meets the specific goals of the Florida Legislature as articulated in FEECA.

VI. TRANSMISSION FACILITIES

31. The Project will be electrically interconnected to the Peninsular Florida bulk power transmission system at FPL's Okeelanta Substation located adjacent to the Project site. The transmission interconnection and switching equipment additions required are minor, e.g., system protection additions and modifications, and have been determined pursuant to studies performed under FPL's standard generator interconnection procedures. No transmission facilities

are proposed in the site certification application for the Project.[5]

VII. ASSOCIATED FACILITIES

32. There are no linear associated facilities to be permitted in the site certification proceedings for the Project. As explained above, the Project will interconnect to the existing FPL Okeelanta Substation, and any required transmission upgrades will be minor and determined in accordance with FPL's interconnection procedures.

VIII. CONSEQUENCES OF DELAY

33. Delaying the construction and operation of the Project will result in adverse consequences to FPL, to Florida generally, and to New Hope. Delaying the construction and operation of the proposed Project will adversely affect FPL by causing FPL, and consequently FPL's customers, to pay more for energy than necessary.

34. Delaying the construction and operation of the Project will also have adverse effects on the State to the extent that such delay will result in Florida utilities burning more non-renewable fossil fuel than necessary, and in greater use of non-renewable primary energy sources, all or virtually all of which must be imported into Florida from other states or other countries. Delay will also have adverse effects on New Hope, which will be prevented from making more efficient use of its existing boilers and deprived of the economic benefits of the Project.

IX. ISSUES OF MATERIAL FACT

[5] This information regarding transmission facilities and studies is provided to the Commission for informational purposes only.

35. While FPL and New Hope do not anticipate that there will be any disputed factual issues in this proceeding, the following are potential issues of material fact to be addressed in this proceeding:

a. Whether the Project is needed, taking into account FPL's need for adequate electricity at a reasonable cost;

b. Whether the Project is the most cost-effective alternative available to meet the needs of FPL for electric energy;

c. Whether the Project is needed, taking into account FPL's need for system reliability and integrity;

d. Whether there are conservation measures reasonably available to New Hope or FPL to mitigate the need for the Project;

e. Whether the Project is consistent with the purposes and goals established by the Florida Legislature through FEECA; and

f. Whether the Project is consistent with the public interest.

36. Based on the Commission's consideration of these issues, the Commission will decide the ultimate issue presented, i.e., whether to grant New Hope's and FPL's requested determination of need for the Project.

STATUTES AND RULES THAT ENTITLE NEW HOPE AND FPL TO RELIEF

37. New Hope Power Partnership and Florida Power & Light Company are entitled to the requested determination of need pursuant to Section 403.519, Florida Statutes, Commission Rules 25-22.080-.081, F.A.C., and the Siting Act.

ULTIMATE FACTS THAT ENTITLE NEW HOPE AND FPL TO RELIEF

38. The ultimate facts that entitle New Hope and FPL to the relief requested are as follows.

a. The Project is needed, taking into account FPL's and Peninsular Florida's need for adequate electricity at a reasonable cost.

b. The Project is the most cost-effective alternative available to meet FPL's need for additional power supply resources and a cost-effective alternative for meeting Peninsular Florida's need for electric energy.

c. The Project will result in measurable reductions in the use of primary fuel for electricity generation in Florida, will increase the overall efficiency of electricity production, and will also help to conserve expensive energy resources, particularly petroleum fuels.

d. There are no conservation measures reasonably available to FPL or to New Hope to mitigate the need for the Project.

e. The Project will promote the public interest of Florida and its citizens and electric consumers.

The specific ultimate facts that entitle New Hope and FPL to relief are alleged in paragraphs 1 through 34 of this Joint Petition for Determination of Need for an Electrical Power Plant.

CONCLUSION

39. The Project will meet the needs of FPL for adequate electricity at a reasonable cost. The Project is the most cost-effective alternative available to FPL to meet its need for electrical energy and will be cost-effective to other Florida utilities that purchase the Project's electrical energy output, as well as to those other utilities' retail consumers. Finally, the Project is consistent with, and promotes the goals of, the Florida Energy Efficiency and Conservation Act. The Project is consistent with the public interest in that it will enhance energy efficiency and conserve primary fossil fuels, as well as provide environmental

benefits associated with those efficiency improvements.

40. Accordingly, the Commission should grant the requested determination of need for the Okeelanta Cogeneration Plant Expansion Project, as described herein.

RELIEF REQUESTED

WHEREFORE, New Hope Power Partnership and Florida Power & Light Company respectfully request that the Commission enter its order GRANTING this Petition for an affirmative determination of need for the proposed Okeelanta Cogeneration Plant Expansion Project.

Respectfully submitted this 21st day of July, 2004.

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Attorneys for Florida Power & Light Company

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that the original and 15 copies of the foregoing have been filed with the Clerk's Office, Florida Public Service Commission, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399 and that a true and correct copy of the foregoing has been served by hand delivery(*) this 21st day of July, 2004, on the following:

Wm. Cochran Keating, Esq.*
Division of Legal Services
Florida Public Service Commission
2540 Shumard Oak Boulevard
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