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August 10, 2004

VIA HAND DELIVERY

Ms. Blanca S. Bayó, Director
Division of the Commission Clerk and
Administrative Services
Florida Public Service Commission
Betty Easley Conference Center
2540 Shumard Oak Boulevard, Room 110
Tallahassee, FL 32399-0850

RECEIVED FPSC
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COMMISSION
CLERK

Re: Docket No. 030623-EI

Dear Ms. Bayó:

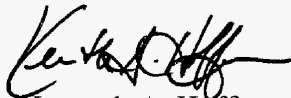
Enclosed for filing in the above-referenced docket on behalf of Florida Power & Light Company ("FPL") are the original and fifteen (15) copies of FPL's Objections to Ocean Properties, Ltd.'s Notices of Taking Depositions Duces Tecum of Chuck Cain, Geisha Williams, Hal Hatcher and Dara Simmons.

Please acknowledge receipt of this document by stamping the extra copy of this letter "filed" and returning the copy to me in the enclosed self-addressed stamped envelope. Please contact me if you have questions regarding this filing.

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KAH/knb
Enclosures

Sincerely,


Kenneth A. Hoffman

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FPSC-COMMISSION CLERK

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

Complaints by Southeastern Utility Services,)
Inc. on behalf of various customers, against) **Docket No. 030623-EI**
Florida Power & Light Company concerning)
thermal demand meter error) **Filed: August 10, 2004**
_____)

**FLORIDA POWER & LIGHT COMPANY'S
OBJECTIONS TO OCEAN PROPERTIES, LTD.'S NOTICES
OF TAKING DEPOSITIONS DUCES TECUM OF CHUCK CAIN,
GEISHA WILLIAMS, HAL HATCHER AND DARA SIMMONS**

Florida Power & Light Company ("FPL"), by and through its undersigned counsel and pursuant to Order No. PSC-04-0581-PCO-EI, the Order Establishing Procedure in the above-referenced docket, Rule 28-106.206, Florida Administrative Code, and Rules 1.190(e), 1.310(b)(5) and 1.350, Florida Rules of Civil Procedure, submits the following Objections to Ocean Properties, LTD.'s ("Ocean Properties") Notice of Taking Depositions Ducus Tecum of Chuck Cain, Geisha Williams and Hal Hatcher, filed July 9, 2004 (attached as Exhibit A); Notice of Taking Corporate Depositions Ducus Tecum, filed July 9, 2004 (attached as Exhibit B); and Corrected Notice of Taking Depositions Ducus Tecum of Chuck Cain and Dara Simmons, filed August 4, 2004 (attached as Exhibit C):

1. On July 9, 2004, Ocean Properties filed a "Notice of Taking Depositions Ducus Tecum" of FPL employees Chuck Cain, Hal Hatcher and Geisha Williams. In the Notice, Ocean Properties asked the deponents to bring to the deposition copies of documents as set forth in Exhibit A to the Notice. Exhibit A contained one request for documents, which is addressed below.

2. Also on July 9, 2004, Ocean Properties filed a "Notice of Taking Corporate Depositions Ducus Tecum." In it, Ocean Properties requested that the deponent(s) bring to the

deposition copies of documents as set forth in Exhibit A to the Notice. Exhibit A contained nine requests for documents, which are addressed below.

3. FPL informed counsel for Ocean Properties that Dara Simmons would be the designated corporate representative for FPL. Additionally, FPL notified counsel for Ocean Properties that Dara Simmons and Chuck Cain would be made available for deposition in Daytona Beach.

4. With knowledge of the identity of FPL's designated representative and in order to clarify the time and location of the August 11, 2004, depositions of Chuck Cain and Dara Simmons, counsel for Ocean Properties filed a "Corrected Notice of Taking Depositions Duces Tecum" on August 4, 2004. Once again, counsel for Ocean Properties requested that the deponents bring to the deposition copies of documents as set forth in Exhibit A to the Corrected Notice. However, no Exhibit A was attached to the Corrected Notice.

5. Despite Ocean Properties' failure to furnish an Exhibit A with its Corrected Notice, FPL will respond to the earlier Notices of Depositions Duces Tecum filed by Ocean Properties. FPL hereby submits its objections to the requests contained in the July 9, 2004, Notices:

I. General Objections.

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

FPL objects to providing information that is proprietary, confidential business information without provisions in place to protect the confidentiality of the information. If the discovery requests call for the disclosure of confidential information, FPL 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. FPL in no way intends to waive claims of confidentiality.

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 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 discovery requests 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 Ocean Properties through normal procedures.

FPL notes that the cumulative effect of the discovery requests in these proceedings make Ocean Properties' 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 should be taken into account when looking at whether responding to a discovery request is overly 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 Ocean Properties' Notices of Taking Depositions Duces Tecum 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.

FPL objects to each request to the extent that it seeks information that is not relevant to the subject matter of this docket and is not reasonably calculated to lead to the discovery of admissible evidence.

FPL objects to each request to the extent it seeks to impose an obligation on FPL to respond on behalf of subsidiaries, affiliates, or other persons that are not parties to this case on the grounds that such requests are overly broad, unduly burdensome, oppressive, and not permitted by applicable discovery rules. The jurisdiction of the Commission concerning the parent and affiliates of a utility is limited. See §§366.05(9) and 366.093(1), Fla. Stat. (2002).

Moreover, the scope of discovery from a party is limited to documents within the possession, custody or control of that party. See, e.g., Southern Bell Telephone and Telegraph Co. v. Deason, 632 So.2d 1377 (Fla. 1994).

FPL objects to each and every request to the extent it is vague, ambiguous, overly broad, imprecise, or utilizes terms that are subject to multiple interpretations but are not properly defined or explained for purposes of such discovery requests. Any documents provided by FPL in response to the Notices of Depositions Duces Tecum will be provided subject to, and without waiver of, the foregoing objection.

In addition, FPL reserves its right to count requests for documents in determining whether it is obligated to respond to additional requests 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 objects to each request that seeks to obtain “all,” “each,” or “every” document to the extent that such discovery is overly broad and unduly burdensome. Any documents that FPL may provide in response to requests will be provided subject to, and without waiver of, this objection.

FPL objects to each request to the extent it is not limited to any stated period of time or a stated period of time that is longer than is relevant for purposes of the issues in this docket, as such discovery is overly broad and unduly burdensome.

FPL expressly reserves and does not waive any and all objections it may have to the admissibility, authenticity or relevancy of the documents produced pursuant to the requests.

II. Specific Objections and Responses

FPL incorporates by reference all of the foregoing General Objections into each of its Specific Objections set forth below as though fully stated therein.

Ocean Properties' Notice of Taking Depositions Duces Tecum – Chuck Cain, Geisha Williams, Hal Hatcher

Request No. 1: Any and all documents in your possession, custody, or control related to thermal demand meters.

FPL objects to this Request to the extent it calls for documents previously produced in response to requests for production in Docket No. 030623-EI, including, but not limited to, Southeastern Utility Services, Inc.'s ("SUSI's") and Ocean Properties' First Request for Production of Documents, issued January 8, 2004, Request Nos. 1-11, 14-17, 20-26; SUSI's Re-Notice of Taking Depositions Duces Tecum of Keith Herbster and Brian Faircloth, filed January 8, 2004, Request Nos. 1-8; SUSI's Notice of Taking Depositions Duces Tecum of Henry Hutchins and Jim Demars, filed May 14, 2004, Requests Nos. 1-14; Ocean Properties' First Request for Production of Documents, issued July 1, 2004, Request Nos. 1-13; Ocean Properties' Notice of Taking Continued Deposition Duces Tecum of David Bromley, filed July 6, 2004, Request Nos. 1-11.

FPL also objects to this Request because it is overly broad and unduly burdensome to the extent it is not limited to any stated period of time and because it seeks to obtain "any and all documents." This Request seeks a general category of information within which only certain portions of the information are reasonably related to the subject matter of this proceeding. Any documents that FPL may provide in response to this Request will be provided subject to, and without waiver of, this objection.

Further, FPL objects to this Request on grounds of relevance. This Request seeks documents that are beyond the scope of this proceeding and not reasonably calculated to lead to the discovery of admissible evidence. To the extent the Request seeks documents that are not relevant to any specific claims, defenses, issues or questions presented in this proceeding and that are not reasonably calculated to lead to the discovery of documents relevant to resolution of such issues, FPL objects.

FPL also objects to this Request as vague and ambiguous in that it does not describe the documents sought with particularity and fails to convey with reasonable clarity what is being requested of FPL. As such, FPL cannot reasonably determine the intended meaning, scope or boundaries of the Request.

FPL objects to this Request to the extent it calls for FPL to disclose information that is protected by the work product doctrine or the attorney-client privilege. This Request seeks documents that would include materials prepared in anticipation of litigation and subject to the attorney work product privilege against disclosure. Ocean Properties' Request is unduly burdensome in that providing the requested data would require an unreasonable expenditure of time and resources to search for documents or information, involving multiple FPL business units and countless hours of work. The burdensome nature of this Request is especially true given that the Request seeks a general category of information within which only limited portions of the information may be reasonably related to the subject matter of this proceeding. FPL is concerned that if it produced all the documents that are arguably responsive to this Request it would be accused of attempting to bury Ocean Properties in largely irrelevant documents.

FPL further objects to this Request to the extent it calls for the disclosure of proprietary, confidential business information.

Ocean Properties Notice of Taking Corporate Depositions Duces Tecum

Request Nos. 1-6 and 8:

1. Any and all documents related to FPL's policy or policies of authorizing customer refunds or charges to customers in the event of meter error;
2. Any and all documents related to FPL [sic] policy of providing refunds to customers whose meters overregistered demand;
3. Any and all documents related to FPL [sic] practices of authorizing customer refunds or charges to customers in the event of meter error;
4. Any and all documents related to FPL [sic] practices of providing refunds to customers whose meters overregistered demand;
5. Any and all documents related to FPL processes for authorizing refunds or charges to customers in [sic] event of meter error;
6. Any and all documents related to FPL processes for providing refunds to customers whose meters have overregistered demand;
8. Any and all documents related to FPL policies, practices and processes for backbilling customers whose meters have under-registered demand;

FPL objects to Request Nos. 1-6 and 8 to the extent responsive documents have previously been produced in response to SUSI's First Request for Production of Documents, Request No. 14.

Request No. 7: Any and all documents reflecting settlement agreements FPL has reached with customers whose thermal demand meters overregistered demand.

FPL objects to Request No. 7 to the extent responsive documents have previously been produced in response to the almost identical Request No. 8 in SUSI's First Request for Production of Documents in this Docket.

Also, FPL objects to this Request to the extent it seeks documents that are not relevant to this proceeding, nor are they reasonably calculated to lead to the discovery of admissible evidence. FPL objects to the extent documents responsive to this Request are not related to claims, issues, or defenses in Docket No. 030623-EI.

In addition, to the extent the Request is directed to a settlement agreement or agreements concerning alleged overbilling for 1V thermal demand meters that over-registered in excess of the tolerance level authorized by Commission rule, such agreement(s) are confidential and may not be disclosed to a third party.

Request No. 9: Any and all documents reflecting the monies FPL did not collect as a result of its meters under-registering demand.

FPL objects to this Request to the extent it seeks documents previously provided in response to SUSI's First Request for Production of Documents No. 21.

Additionally, FPL objects to this Request on grounds of relevance to the extent it is not reasonably calculated to lead to the discovery of evidence admissible in Docket No. 030623-EI. FPL objects to the extent the Request is not related to a claim, issue, or defense in this Docket.

Further, FPL objects to this Request as overly broad and unduly burdensome to the extent it seeks "any and all" documents, to the extent it is not limited in time, and to the extent it may require FPL to perform calculations that do not already exist.

Because the Requests are unlimited in time, FPL may be required to produce data which could be more than a decade (and maybe two) old. This would require the retrieval of information from archives, a lengthy and time consuming process, especially given the corporate reorganizations the company has experienced. The breadth of the search necessary to respond to this request and the unlimited time frame for which the data is sought make the request unduly burdensome and unreasonable. Moreover, the relevance of such old and stale data is highly questionable. Such a request is unlikely to lead to the discovery of admissible evidence and, relative to the burden imposed, should not be permitted.

Further, documents responsive to this Request may contain confidential proprietary business information, including customer-specific account information. For privacy and other

reasons, FPL has a policy against disclosure of such customer-specific account information to third parties without the customer's consent.

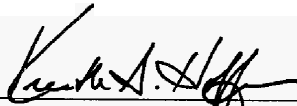
Given the unduly burdensome nature of Request No. 9 and the irrelevance of documents responsive to this Request to the claims and issues in Docket No. 030623-EI, FPL objects.

Respectfully submitted,

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By:



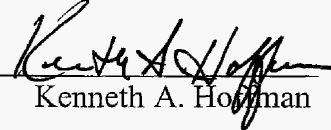
Kenneth A. Hoffman

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of Florida Power & Light Company's Objections to Ocean Properties, LTD's Notices of Taking Depositions Duces Tecum of Chuck Cain, Geisha Williams, Hal Hatcher and Dara Simmons has been furnished by Hand Delivery this 10th day of August, 2004, to the following:

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By: 
Kenneth A. Hoffman