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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Approval of Demand-Side)
Management Plan of Florida Power)
& Light Company)

Docket No. 941170-EG
Filed: August 11, 1995

LEGAL ENVIRONMENTAL ASSISTANCE FOUNDATION, INC. (LEAF)
OPPOSITION TO FLORIDA POWER & LIGHT COMPANY'S
MOTION IN OPPOSITION TO LEAF'S PETITION

Legal Environmental Assistance Foundation, Inc. (LEAF), pursuant to Rule 25-22.037(2), Fla. Admin. Code, responds to Florida Power & Light Company's (FPL) Motion in Opposition to Leaf's Petition for Hearing. In response to the Motion, LEAF states:

1. LEAF opposes the allegation of FPL, in its second unnumbered paragraph, that LEAF did not comply with the provision of Rule 25-22.036(7)(a)4 (sic) Fla. Admin. Code regarding ultimate facts alleged. On its face, LEAF's Petition clearly and concisely states both the ultimate fact -- FPL's Plan is not reasonable --

and the underlying matters disputed, thereby complying with the Commission's rules.

2. LEAF opposes the allegation of FPL, in its third unnumbered paragraph, that LEAF did not comply with the provision

of Rule 25-22.036(7)(a)2 Fla. Admin. Code regarding an explanation of its substantial interests and how they are affected, and disputes

FPL's statement that LEAF does not have standing. LEAF asserts that the Commission's Order No. PSC-95-0102-PCO-EG already grants

LEAF party status in this case and that FPL has waived its

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opportunity to challenge that order. In addition, LEAF asserts that its Florida membership is broadly distributed and constitutes a substantial portion of LEAF's membership. LEAF's corporate purposes include environmental and public health protection. In light of the ongoing, multiple aspects of litigation in related dockets, it should be unnecessary, at this point, for LEAF make any detailed statement regarding its affected interests. The allegations in LEAF's Petition for Hearing meet the requirements for standing. Further, if FPL requires more specific details, it may seek discovery of LEAF pursuant to Rule 25-22.034 Fla. Admin. Code. Alternatively, the Commission may allow LEAF to file an amended Petition pursuant to Rule 25-22.036(8) Fla. Admin. Code.

3. LEAF opposes the allegations of FPL, in its fourth unnumbered paragraph, that LEAF has raised previously-litigated issues, is barred by the doctrines of collateral estoppel and administrative finality, and has failed to state a cause of action. The facts disputed in LEAF's Petition are all addressed in the specific criteria for DSM Plan approval in the Commission Order at issue. PSC-95-0691-FOF-EG (dated June 9, 1995).

4. LEAF opposes the allegation of FPL, in its fifth unnumbered paragraph, that LEAF's Petition extends beyond the scope of the proceeding and refers to the language of the relevant Commission Order (PSC-95-0691-FOF-EG), as to the proper scope of the proceeding.

5. LEAF's grounds are more fully set forth in its attached supporting Memorandum.

WHEREFORE, LEAF respectfully requests that FPL's Motion be denied or, in the alternative, that the Commission direct FPL to conduct discovery of LEAF with regard to its status or grant LEAF the opportunity to file and serve an amended Petition.

Respectfully submitted,

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