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May 21, 1997

Ms. Blanca S. Bayó, Director
Division of Records and Reporting
Florida Public Service Commission
4075 Esplanade Way, Room 110
Tallahassee, FL 32399

RE: DOCKET NO. 96-184-DQ

Dear Ms. Bayó:

Enclosed for filing please find the original and fifteen (15) copies of Orlando CoGen Limited, L.P.'s Petition to Intervene in the above referenced docket.

Very truly yours,

Matthew M. Childs
Matthew M. Childs, P.A.

✓ MMC:ml

ACK _____ Enclosure
AFA 2 cc: All Parties of Record
APP _____
CAF _____
CMU _____
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Key West 305 292 7272
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DOCUMENT NUMBER - DATE

05-09 MAY 21 5

FPSC-RECORDS/REPORTING

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

IN RE: Petition for approval of)
early termination amendment to)
negotiated qualifying facility)
contract with Orlando CoGen)
Limited, Ltd. by Florida Power)
Corporation.)

DOCKET NO. 961184-EQ
FILED: MAY 21, 1997

PETITION TO INTERVENE

Orlando CoGen Limited, L.P., a Delaware limited partnership ("OCL"), pursuant to Rule 25-22.039, Fla. Admin. Code, hereby files this Petition for Leave to Intervene in this proceeding and in support thereof, states:

Background

1. The name and address of the Petitioner is:

Orlando CoGen Limited, L.P.
8275 Exchange Drive
Orlando, Florida 32809

Copies of all pleadings, notices and correspondence in this case should be directed to the undersigned at the following address:

Matthew M. Childs, P.A.
Steel Hector & Davis LLP
215 South Monroe Street
Suite 601
Tallahassee, FL 32301

Roger A. Yott
Manager, Power Sales Contracts
Air Products and Chemicals, Inc.
7201 Hamilton Boulevard
Allentown, PA 18195

2. On March 13, 1991, Florida Power Corporation entered into a negotiated contract with Orlando CoGen Limited, L.P., a

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FPSC-RECORDS/REPORTING

qualifying facility, for the purchase of firm energy and capacity through the year 2023. This contract was approved for cost recovery pursuant to Commission Rule by Order No. 24734 entered in Docket No. 910401-EQ on July 1, 1991.

3. By petition dated October 1, 1996, Florida Power Corporation filed and requested approval of an amendment to its contract with Orlando CoGen Limited, L.P. This amendment, dated September 20, 1996, would, among other matters, reduce the term of the contract for firm energy and capacity by ten years in exchange for an additional capacity payment to OCL totalling \$49,405,000 and made over a period of five years.

4. On January 27, 1997, this Commission issued its Notice of Proposed Agency Action Order Denying Petition for Approval of Early Termination Amendment by Order No. PSC-97-0086-FOF-EQ. On February 17, 1997, Florida Power Corporation filed its Petition on Proposed Agency Action with respect to Order No. PSC-97-0086-FOF-EQ pursuant to Commission Rule.

Grounds for Intervention

5. To be effective for cost recovery by Florida Power Corporation, the September 20, 1996 amendment to the contract between FPC and OCL requires approval by this Commission. Commission approval of material amendments to contracts between electric utilities and qualifying facilities has been a condition of cost recovery under prior Commission practice and is required by

Fla. Admin. Code Rule 25-17.0836 "Modification to Existing Contracts; Explanation of When Approval is Required."

6. OCL's substantial interests will be directly and materially affected by the action taken in this proceeding. Any Commission action in this proceeding, either approval or disapproval, will immediately affect both OCL's performance requirements under the contract and OCL's contractual right to compensation. If the contract amendment is not approved, then the March 31, 1991 contract, calling for the purchase and sale of firm energy and capacity based upon a committed capacity of 79.2 megawatts, will have to continue to be performed for the ten year period 2014 through 2023. In addition, if the contract amendment is not approved, then OCL will not be paid the \$49,405,000 consideration. OCL submits that its interests in the contract and contract amendment with Florida Power Corporation are substantial both in terms of the amount of electrical power and dollar amount of consideration at issue. OCL further submits that its substantial interests are immediate and will be adversely affected if the contract amendment is not approved.

This proceeding, one which is now expressly contemplated by Commission Rule, is the type of proceeding in which OCL is entitled to participate to protect its substantial interests. OCL submits that it is entitled to intervene in this proceeding pursuant to Rule 25-22.039, Fla. Admin. Code and Section 120.52(12), Fla. Stats. because its substantial interests will be affected through

this proceeding.

7. OCL understands and accepts as disputed issues of material fact, those set forth in Florida Power Corporation's February 17, 1997 Petition on Proposed Agency Action. OCL submits that the amended contract offers substantial net benefits to the general body of ratepayers and should be approved under Rule 25-17.0836, Fla. Admin. Code.

WHEREFORE, Orlando CoGen Limited, L.P., hereby files this Petition for Leave to Intervene, pursuant to Rule 25-22.039, Fla. Admin. Code.

DATED this 21st day of May, 1997.

Respectfully submitted,

STEEL HECTOR & DAVIS LLP
Suite 601
215 South Monroe Street
Tallahassee, FL 32301
Attorneys for Florida Power
& Light Company

By: 
Matthew N. Childs, P.A.


**CERTIFICATE OF SERVICE
DOCKET NO. 961184-BQ**

I HEREBY CERTIFY that a true and correct copy of Orlando CoGen Limited, L.P.'s Petition to Intervene has been furnished by Hand Delivery (*), or U.S. Mail this 21st day of May, 1997, to the following:

**Lorna Wagner, Esq.*
Division of Legal Services
FPSC
2540 Shumard Oak Blvd.#370
Tallahassee, FL 32399**

**James A. McGee, Esq.
Florida Power Corporation
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**John Roger Howe, Esq.*
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Matthew M. Childs, P.A.