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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Review of Nuclear Outage  
at Florida Power Corporation's  
Crystal River Unit No. 3

DOCKET NO. 970261-EI

MAY 23, 1997

**PETITION OF ROBERT A. BUTTERWORTH, ATTORNEY  
GENERAL, STATE OF FLORIDA, TO INTERVENE**

Robert A. Butterworth, Attorney General, State of Florida (Attorney General), pursuant to Rule 25-22.039, Florida Administrative Code, petitions the Florida Public Service Commission (Commission) to enter an order granting leave to the Attorney General to intervene in this Docket and states:

1. The Attorney General, pursuant to Art. IV, Section 4, Fla. Const., is the chief legal officer of the State with his principal place of business and mailing address at

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APP \_\_\_\_\_  
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CMU \_\_\_\_\_  
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2. This Docket has been opened by the Commission to investigate the propriety of the Commission's prior approval of recovery of replacement fuel costs incurred by Florida Power Corporation (Florida Power) during the period of September 2, 1996 through March 31, 1997, as a result of the shut-down or outage of Florida Power's Crystal River Unit No. 3

3. The Attorney General brings this Petition in his parens patriae capacity as guardian of the health, welfare, and safety of the citizens of the State of Florida, and acting in his proprietary

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capacity on behalf of the State of Florida as a significant purchaser of electricity generated by Florida Power and subject to the increased fuel adjustment charges in issue. The Attorney General seeks relief from the Commission as the state agency charged with the responsibility under Chapter 366, Florida Statutes, to scrutinize the costs of electric utilities within its jurisdiction, so as to establish and maintain just and reasonable rates on behalf of the citizens of Florida, and to ensure that the ratepayers pay for only those utility costs that are reasonable and prudent.

4. The Attorney General has broad statutory authority to prosecute and appear in suits in which the State is a party or is otherwise interested. Section 16.01(4),(5), and (6), Florida Statutes. One of the matters in which the State has an interest is upholding the intent and public purpose of legislative enactments.

5. Where the public interest is involved, the Attorney General may not only initiate litigation, but also intervene in pending litigation. State ex rel. Shevin v. Yarbrough, 257 So 2d 891, 894 (Fla. 1972). The Attorney General is granted wide discretion in determining what particular matters involve the public interest. State ex rel. Shevin v. Exxon Corp., 526 F. 2d 266, 268-69 (5th Cir. 1976). Accordingly, his conclusion that a particular matter involves the public interest is presumed to be correct. Yarbrough, at 895.

6. The enforcement of the statutes and policies at issue in this proceeding clearly involve matters of public interest.

7. There are numerous disputed issues of material fact in this Docket, including the prudence of Florida Power's management decisions and remedial actions in connection with the outage of its Crystal River Unit No. 3, and whether it is reasonable and prudent under the

circumstances to allow Florida Power to recover its replacement fuel costs from its customers

8. The Attorney General is entitled to relief under Section 366.076, Florida Statutes, in addition to the constitutional provisions, statutes, rules, and judicial precedent cited above

9. The Commission is the state agency charged with the responsibility under Chapter 366, Florida Statutes, to regulate the costs of electric utilities within its jurisdiction, so as to establish and maintain just and reasonable rates on behalf of the citizens of Florida, and to ensure that the ratepayers pay for only those utility costs that are reasonable and prudent

WHEREFORE, the Attorney General respectfully requests that the Commission enter an order granting the Attorney General leave to intervene in this Docket.

DATED this 23<sup>rd</sup> day of May, 1997

Respectfully submitted,

ROBERT A. BUTTERWORTH  
Attorney General



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CERTIFICATE OF SERVICE  
DOCKET NO. 970261

I CERTIFY that a copy hereof has been furnished by mail to the following persons on this  
23rd day of May, 1997:

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