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*J. E. Sjoström*

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September 9, 1997

**By Hand Delivery**

Blanca S. Bayó, Director  
Records and Reporting  
Florida Public Service Commission  
4075 Esplanade Way, Room 110  
Tallahassee, Florida 32399-0850

**RE: Docket No. 970410-EI**

Dear Ms. Bayó

Enclosed for filing on behalf of Florida Power & Light Company (FPL) are the original and fifteen (15) copies of FPL's Response to AmeriSteel's Motion for Reconsideration of Order Establishing Procedure in the above referenced docket

If you or your Staff have any questions regarding this filing, please contact me

Very truly yours,

*Jonathan E. Sjoström*  
Jonathan E. Sjoström

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09043 SEP-95  
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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

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IN RE: Proposal to Extend Plan for )  
the Recording of Certain Expenses )  
for the Years 1998 and 1999 for )  
Florida Power & Light Company )

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DOCKET NO. 970410-EI  
FILED: September 9, 1997

**FPL'S RESPONSE TO AMERISTEEL'S MOTION FOR  
RECONSIDERATION OF ORDER ESTABLISHING PROCEDURE**

FPL hereby responds to AmeriSteel Corporation's ("AmeriSteel")  
Motion for Reconsideration of Order Establishing Procedure.

AmeriSteel offers nothing to demonstrate a basis to change the  
prehearing procedures established by the Prehearing Officer.  
AmeriSteel's motion merely reargues the proper scope of this  
proceeding -- a subject the Commission considered during at least  
two extensive oral arguments and a subject presented in the dozens  
of pages of pleadings AmeriSteel previously filed. There is no  
basis to grant oral argument to again consider the matters raised  
in AmeriSteel's motion.

This case has been pending for months. AmeriSteel now  
complains that it would like more delay than the nearly 90  
additional days provided by the Order. AmeriSteel also complains  
that it would prefer to have FPL file testimony first rather than  
having AmeriSteel and FPL file simultaneously.

AmeriSteel has shown no basis to conclude that the Prehearing  
Officer improperly framed the issues, established an unreasonable  
time for the hearing or provided an inappropriate schedule for

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filing direct testimony. AmeriSteel's assertion, without benefit of authority, that its due process rights are somehow being denied is preposterous.<sup>1</sup>

Given that the hearing in this case is necessitated by AmeriSteel's petition protesting proposed agency action, it is perfectly appropriate to require AmeriSteel to file testimony simultaneously with FPL. It would have been equally appropriate for the Commission to require AmeriSteel to file first, but that is certainly a matter properly left to the Prehearing Officer's discretion. Moreover, this discretionary decision caused no harm to AmeriSteel. AmeriSteel's claim that "it is impossible for AmeriSteel to address the Plan in its expert testimony until there has been a more detailed explanation regarding the need for it by FPL or the Staff" is a contrived, fictitious consequence of AmeriSteel's argument that the Commission can never act by proposed agency action. The Commission can, of course, act by proposed agency action and it is no novel occurrence for the person protesting proposed agency action to be required to demonstrate that the action taken is inappropriate. Additionally, the Order on Prehearing Procedure specifically provides for rebuttal testimony,

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<sup>1</sup>AmeriSteel's complaint that there should be more delay before the hearing is particularly ironic considering that AmeriSteel absorbed very nearly every last moment of the ten days for filing its motion for reconsideration. AmeriSteel's failure to file its motion (which is simply a rehash of AmeriSteel's prior arguments) at the earliest possible time underscores the lack of urgency in AmeriSteel's procedural arguments.

so AmeriSteel can provide whatever response is appropriate at that time. There is no prejudice whatever to AmeriSteel in the procedure established.

It is a complete fabrication for AmeriSteel to claim that "The Hearing Schedule Affords AmeriSteel No Meaningful Opportunity for Discovery." AmeriSteel managed to propound ten interrogatories and thirteen requests for production to FPL and additional voluminous discovery to the Staff. AmeriSteel has the same opportunity to conduct discovery as any other party before the Commission.

The Order Establishing Prehearing Procedure provides AmeriSteel with more than sufficient opportunity to conduct discovery and present its case. For AmeriSteel to inform the Commission that AmeriSteel would do things differently if it were the Prehearing Officer does not demonstrate a basis for reconsideration.

CONCLUSION

AmeriSteel's Motion for Reconsideration and Request for Oral Argument should be denied.

DATED this 9<sup>th</sup> day of September, 1997.

Respectfully submitted,

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Suite 601  
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Attorneys for Florida Power  
& Light Company

By:

  
Matthew M. Childs, P.A.  
Jonathan Sjostrom

CERTIFICATE OF SERVICE  
DOCKET NO. 970410-EI

I HEREBY CERTIFY that a true and correct copy of FPL'S Response to Ameristeel's Motion for Reconsideration of Order Establishing Procedure has been furnished by Hand Delivery (\*), or Facsimile and U.S. Mail this 9th day of September, 1997, to the following:

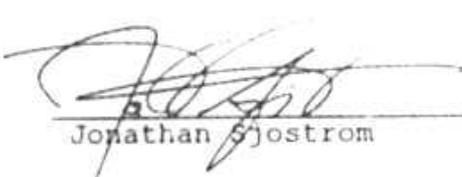
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