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Matthew M. Childs, P.A.

October 1, 1997

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

RE: DOCKET NO. 90800-02

Dear Ms. Bayó:

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

Also enclosed is a formatted double sided high density 3.5 inch diskette containing the Prehearing Statement for Orlando CoGen Limited, L.P.

Very truly yours,

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

ACK 4

CM MMC/ml

cc: All Parties of Record

*Shelton*

RECEIVED & FILED

*Ky*  
RECORDS

DOCUMENT NUMBER-DATE

10077 OCT-15

Key West 305 292 7272 305 292 7271 Fax  
Miam 305 577 2000 305 577 7001 Fax  
West Palm Beach 561 650 7200 561 655 1509 Fax  
582 951 4105 Fax  
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: OCTOBER 1, 1997

ORLANDO COGEN LIMITED, L.P.'S  
PREHEARING STATEMENT

Pursuant to Order No. PSC-97-0434-PCO-EQ, issued April 17, 1997, as modified by Order No. PSC-97-1009-PCO-EQ, issued August 25, 1997, establishing the prehearing procedure in this docket, Orlando CoGen Limited, L.P. ("OCL") hereby submits its Prehearing Statement.

**APPEARANCES**

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

**A. WITNESSES**

As to witnesses, OCL incorporates its September 10, 1997 Response to Order No. PSC-97-1009-PCO-EQ/Direct Testimony and Exhibits and Motion to Present Live Testimony, with respect to OCL's intention to call as witnesses Messrs. Dudley and Stallcup of the Commission Staff as adverse witnesses ("Motion"). The intended subject matter of this testimony will be as described in the incorporated Motion.

**B. EXHIBITS**

As to exhibits, OCL intends to use the following documents and document areas as described in its September 10, 1997 Response to

Order No. PSC-97-1009-FCO-EQ/Direct Testimony and Exhibits and Motion to Present Live Testimony.

**DESCRIPTION**

1. Fla. PSC Review of Electric Utility 1996 Ten Year Site Plans dated December 26, 1996.
2. The April 26, 1996 letter of transmittal filing the Ten Year Site Plan supplemental information by Florida Power Corp. and the supplemental information.
3. Information and data contained in November 26, 1996 letter to Judy Harlow of the Commission Staff.
4. The petition and incorporated documents for approval dated October 1, 1996 (and September 30, 1996 letter of transmittal) of the early termination amendment to a negotiated contract with Orlando CoGen Limited, L.P. by Florida Power Corporation.
5. Petition for Approval of Contracts for the Purchase of Firm Energy and Capacity in Docket No. 910401-EQ dated March 19, 1991 together with supporting documents.
6. Order No. 24734 issued in Docket No. 910401-EQ on 24734.
7. December 26, 1996 Memorandum of the Commission Staff ("Staff Recommendation") in Docket No. 961184-EQ.
8. Florida Power Corporation responses to discovery requests by the Commission Staff in Docket No. 961184-EQ.

**C. STATEMENT OF BASIC POSITION**

The Commission should approved the early termination amendment to the negotiated qualifying facility contract with Orlando CoGen Limited, L.P. by Florida Power Corporation. Electric utilities are, by Commission rule and policy, required to negotiate with qualifying facilities for the purchase of firm electrical energy and capacity to meet the utilities' need for capacity and energy and to make such purchases at prices that are cost effective.

Commission Rule 25-17.082, et. seq. Fla. Admin. Code, not only encourages negotiated contracts with qualifying facilities but also sets forth the standards for approval by the Commission of modifications to such contracts, Commission Rule 25-17.0836, Fla. Admin. Code. Florida Power Corporation has presented evaluations comparing the modification to the existing contract and to its avoided cost and demonstrated the cost effectiveness of the modification. The alternative evaluations to be offered by the Office of Public Counsel and the Commission Staff appear to be inconsistent with the Commission's rules and would produce arbitrary and capricious results.

**D. STATEMENT OF FACTUAL ISSUES AND POSITIONS**

1. Whether the proposed buyout of the OCL contract meets the standards of Commission Rule 25-17.0836, Fla. Admin. Code.

**POSITION:** Yes.

2. Are the economic risks associated with projected ratepayer savings resulting from the Amendment to the Negotiated Contract between Florida Power Corporation and Orlando CoGen Limited, L.P., reasonable?

**POSITION:** Yes. Moreover, the analysis performed by FPC is consistent with Commission rules.

3. Are the intergenerational inequities among Florida Power Corporation's ratepayers, if any, associated with the Amendment to the Negotiated Contract between Florida Power Corporation and Orlando CoGen Limited, L.P., reasonable?

**POSITION:** Yes.

4. Does the Commission have a defined standard for intergenerational fairness, and if so, what is that standard?

**POSITION:** OCL is not aware of a consistent defined standard or of defined standards that are consistent.

5. Should the Amendment to the Negotiated Contract between Florida Power Corporation and Orlando CoGen Limited, L.P., be approved for cost recovery?

**POSITION:** Yes.

6. If approved, how should Florida Power Corporation recover the expenses associated with the Amendment to the Negotiated Contract between Florida Power Corporation and Orlando CoGen Limited, L.P.,?

**POSITION:** No position at this time.

7. That the proposed buyout of the OCL contract will provide net benefits soon than 22 years into the future.

**POSITION:** Yes.

8. Whether the "sensitivities" performed in support of the Alternative Staff Recommendation are correct; are inconsistent with planning assumptions and methodologies or are appropriate.

**POSITION:** The issue awaits pending discovery but preliminary evaluation reflects that the sensitivities are not correct, are not consistent with planning assumptions and methodologies and are not appropriate. For instance, it appears that a gas price forecast used by Staff was constructed by Staff but misidentified as being a FPC forecast and mischaracterized as being "found suitable for planning purposes at the December 2, 1996 Internal Affairs conference."

9. Whether all assumptions from FPC's 1996 Ten Year Site Plan that were used to perform "sensitivities" by Staff in support of the Alternative Staff Recommendation were found to be suitable for planning purposes at the 12/2/96 Internal Affairs Conference whether each of the "sensitivities" developed by the Staff in support of the Alternative Recommendation are reasonable correctly performed and developed and demonstrate the impact of short-term changes in fuel price projections.

**POSITION:** Awaiting discovery from the Commission Staff but it does not appear so.

10. Whether the assumptions used in performing the "sensitivities" in support of the Alternative Recommendation are appropriate and appropriately characterized in the Alternative Staff Recommendation.

**POSITION:** Awaiting discovery from the Commission Staff but it does not appear so.

11. Whether the "scenarios of higher fuel prices and higher rates of inflation [are] consistent with historical events over recent history" and whether these scenarios "represent reasonable scenarios for the future" are correct assertions and whether inconsistent with the planning approach approved by the Commission.

**POSITION:** Awaiting discovery from the Commission Staff but it does not appear so.

12. That the Order fails to consider "whether it is appropriate to address potential strandable costs at this time."

**POSITION:** No position at this time.

**E. STIPULATED ISSUES**

None at this time.

**F. PENDING MOTIONS**

On February 17, 1997, FPC filed and served its Motion for Informal Prehearing Schedule.

On September 2, 1997, Staff filed and served its Request for Protective Order with respect to Staff's Objection to FPC's First Set of Interrogatories Propounded to Staff.

On September 10, 1997, OCL filed and served its Motion to Present Live Testimony with respect to OCL's Response to Order No. PSC-97-1009-PCO-EQ/Direct Testimony and Exhibits.

On September 19, 1997, Staff filed and served its Motion for Protective Order with respect to Staff's Objection to OCL's Notice of Taking Deposition.

**G. STATEMENT OF COMPLIANCE WITH ORDER ESTABLISHING PROCEDURE**

Other than as described in OCL's Motion to Present Live Testimony there is no requirement with which OCL cannot comply.

Respectfully submitted,

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Attorneys for Orlando CoGen  
Limited, L.P.

BY:   
Matthew M. Childs, P.A.

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

**I HEREBY CERTIFY** that a true and correct copy of Orlando CoGen Limited, L.P.'s Prehearing Statement has been furnished by Hand Delivery (\*), or U.S. Mail this 1st day of October, 1997, to the following:

**William Cochran Keating IV, Esq.\***  
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