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December 11, 1997

VIA HAND DELIVERY

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

Re: Docket No. 971446-EU
Petition of Duke Energy New Smyrna Beach Power Company,
L.L.P. for Declaratory Statement Concerning Eligibility to
Obtain Determination of Need Pursuant to Section 403.519,
Florida Statutes

Dear Ms. Bayo:

Enclosed for filing are the original and fifteen copies of Enron Capital and Trade Resources Corp.'s Motion for Leave to File an Amicus Curiae Memorandum of Law and Request to Address the Commission in Docket No. 971446-EU.

Also enclosed is an additional copy of the Memorandum which we request you date stamp and return to us.

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DOCUMENT NUMBER-DATE

12717 DEC 11 97

FPSC-RECORDS/REPORTING

KATZ, KUTTER, HAIGLER, ALDERMAN, BRYANT & YON, P. A.

Blanca S. Bayo, Director
December 11, 1997
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If you have any questions, please feel free to call me.

Sincerely,



Jose A. Diez-Arguelles

JAD/sb
Enclosures

cc: Richard A. Blandford
Bill L. Bryant, Jr.
Gary P. Timin

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

| | | |
|-----------------------------------|---|--------------------------|
| In re: Petition of Duke Energy |) | Docket No. 971446-EU |
| New Smyrna Beach Power Company, |) | |
| L.L.P. for Declaratory Statement |) | |
| Concerning Eligibility To Obtain |) | |
| Determination of Need Pursuant to |) | |
| Section 403.519, Florida Statutes |) | Filed: December 11, 1997 |

**ENRON CAPITAL & TRADE RESOURCES CORP.'S
MOTION FOR LEAVE TO FILE AN AMICUS CURIAE
MEMORANDUM OF LAW AND REQUEST TO ADDRESS THE COMMISSION**

Pursuant to Rule 25-22.037(2), F.A.C., Enron Capital and Trade Resources Corp. ("ECT") moves the Commission for leave to file an Amicus Curiae Memorandum of Law addressing the issues raised by the Petition for Declaratory Statement filed by Duke Energy New Smyrna Beach Power Company, L.L.P. Also, ECT requests leave to address the Commission at the Agenda Conference where the Petition for Declaratory Statement is considered.

ECT is a wholly-owned subsidiary of Enron Corp. ("Enron") and conducts virtually all of Enron's world-wide merchant operations. ECT's core businesses include all types of transactions involving natural gas, electricity, crude oil and natural gas liquids. These activities include acquiring and developing energy related assets, as well as providing finance and risk management products to its customers. ECT is the largest independent marketer of natural gas and, through its wholly-owned subsidiary Enron Power Marketing, Inc., is the largest independent marketer of wholesale electricity in the United States.

ECT is currently discussing the development of merchant power plants with prospective Florida customers and has an interest in promoting competition in the wholesale electrical power market.

ECT submitted written comments to the Commission staff in response to a staff request for comments regarding the applicability of the Florida Electrical Power Plant Siting Act to merchant plants. ECT also participated in the staff workshop held on November 7, 1997, where responses to the staff's request were discussed. Further, ECT participated in the informal meeting held by Commission staff on November 17, 1997, to discuss the procedural issues present in this Docket and in Dockets Nos. 971313 and 971337.

ECT filed an Amicus Curiae Memorandum of Law in Docket No. 971337-EU. The issues present in Docket No. 971337-EU are essentially the same issues present in this Docket. Therefore, rather than filing essentially the same Memorandum in this Docket, ECT requests that the Amicus Curiae Memorandum of Law filed in Docket No. 971337-EU be considered as filed in this Docket.

ECT respectfully submits that its participation in the Docket will assist the Commission in considering the issues raised by the Petition, some of which have not been fully addressed by others.

ECT respectfully requests that the Commission allow ECT to file an Amicus Curiae Memorandum of Law and address the Commission.

Respectfully submitted,



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Attorneys for Enron Capital & Trade Resources Corp.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of Enron Capital & Trade Resources Corp's Motion for Leave to File and Amicus Curiae Memorandum of Law and Request to Address the Commission was served by Hand Delivery (when indicated with an *) or mailed the 11th day of December, 1997 to the following:

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