

ORIGINAL

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Joint Petition for)	
Determination of Need for an)	DOCKET NO. 981042-EM
Electrical Power Plant in Volusia)	
County by the Utilities Commission,)	FILED: OCTOBER 23, 1998
City of New Smyrna Beach, Florida,)	
and Duke Energy New Smyrna Beach)	
Power Company Ltd., L.L.P.)	

**DUKE ENERGY NEW SMYRNA BEACH POWER COMPANY LTD., L.L.P.'S
OBJECTIONS TO FLORIDA POWER & LIGHT COMPANY'S FIRST
SET OF INTERROGATORIES (NOS. 1-37)**

Duke Energy New Smyrna Beach Company Ltd., L.L.P. ("Duke New Smyrna") pursuant to the Order Establishing Procedures issued in this docket on September 4, 1998, hereby respectfully submits its objections to Florida Power & Light Company's ("FPL") First Set of Interrogatories (Nos. 1-37) which were served on Duke New Smyrna on October 13, 1998.

GENERAL OBJECTIONS

Duke New Smyrna objects to FPL's First Set of Interrogatories (Nos. 1-37) on the grounds set forth in paragraphs A and B below. Each of Duke New Smyrna's responses will be subject to and qualified by these general objections.

A. Duke New Smyrna objects to FPL's request that the answers to these interrogatories be provided on or before October 27, 1998. Rule 1.340, Florida Rule of Civil Procedure ("F.R.C.P.") which is made specifically applicable to this proceeding by Uniform Rule 28-106.206, Florida Administrative Code ("F.A.C."), requires that answers to interrogatories shall

DOCUMENT NUMBER-DATE
 11877 OCT 29 1998 0683
 FPSC-RECORDS/REPORTING

be served within 30 days of service of the interrogatories. However, in the spirit of compromise, Duke New Smyrna stated in its Response in Opposition to FPL's Motion to Expedite Discovery and Motion for Alternative Expedited Discovery Schedule, filed with the Commission on October 19, 1998, that it will agree to respond to FPL's discovery requests within 20 days of service.

B. As set forth more specifically below, Duke New Smyrna objects to those of FPL's interrogatories that ask for confidential, proprietary business information. Moreover, Duke New Smyrna does not have a form of confidentiality agreement, nor does Duke New Smyrna believe that it would be possible to fashion such an agreement, that would be satisfactory to protect Duke New Smyrna's interests in such information.

SPECIFIC OBJECTIONS

Duke New Smyrna makes the following specific objections to FPL's First Set of Interrogatories (Nos. 1-37). Duke New Smyrna's specific objections are numbered to correspond with the numbers of FPL's interrogatories.

12. Duke New Smyrna objects to this interrogatory on the ground that it seeks confidential, proprietary business information. In addition, because the Project is a merchant plant which poses no economic risk to Florida's ratepayers, the sources of the internal funds that Duke New Smyrna will use to finance the Project are irrelevant and immaterial to this proceeding and therefore, discovery regarding those sources is not calculated to lead to the discovery of admissible evidence.

21. Duke New Smyrna objects to this interrogatory on the ground that it seeks confidential, proprietary business information, at least as to projected power sales prices and power purchase costs. Duke New Smyrna will attempt to answer this interrogatory to the extent possible with non-confidential, non-proprietary information.

23. Duke New Smyrna objects to this interrogatory on the ground that it seeks confidential, proprietary business information. Duke New Smyrna will attempt to answer this interrogatory to the extent possible with non-confidential, non-proprietary information.

25. Duke New Smyrna objects to this interrogatory on the ground that it is vague. Pursuant to the Order Establishing Procedure in this proceeding, Duke New Smyrna requests clarification of this request.

28. Duke New Smyrna objects to this interrogatory on the ground that it seeks confidential, proprietary business information. In addition, the interrogatory seeks information that is irrelevant, immaterial and not calculated to lead to the discovery of admissible evidence.

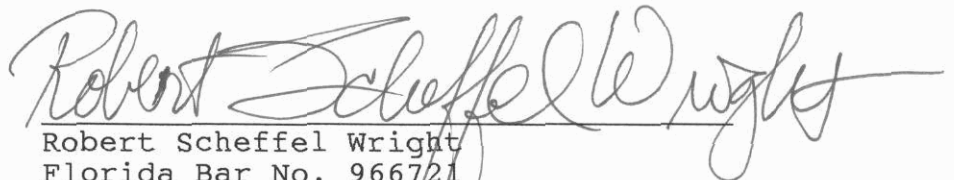
30. Duke New Smyrna objects to this interrogatory on the ground that it seeks confidential, proprietary business information. Duke New Smyrna will attempt to answer this interrogatory to the extent possible with non-confidential, non-proprietary information.

33. Duke New Smyrna objects to this interrogatory on the

ground that it seeks confidential, proprietary business information. Duke New Smyrna will attempt to answer this interrogatory to the extent possible with non-confidential, non-proprietary information.

37. Duke New Smyrna objects to this interrogatory on the ground that it seeks confidential, proprietary business information.

Respectfully submitted this 23rd day of October, 1998.



Robert Scheffel Wright
Florida Bar No. 966721
John T. LaVia, III
Florida Bar No. 853666
LANDERS & PARSONS, P.A.
310 West College Avenue (ZIP 32301)
Post Office Box 271
Tallahassee, Florida 32302
Telephone (850) 681-0311
Telecopier (850) 224-5595

Attorneys for the Utilities Commission,
City of New Smyrna Beach, Florida,

and

Duke Energy New Smyrna Beach Power
Company Ltd., L.L.P.

CERTIFICATE OF SERVICE
DOCKET NO. 981042-EM

I HEREBY CERTIFY that a true and correct copy of the foregoing has been served by hand delivery (*) or by United States Mail, postage prepaid, on the following individuals this 23rd day of October, 1998:

Leslie J. Paugh, Esquire*
Florida Public Service Commission
2540 Shumard Oak Boulevard
Gunter Building
Tallahassee, FL 32399

Gail Kamaras, Esquire
LEAF
1114 Thomasville Road
Suite E
Tallahassee, FL 32303-6290

Charles A. Guyton, Esquire*
Steel Hector & Davis
215 South Monroe Street
Suite 601
Tallahassee, FL 32301

Gary L. Sasso, Esquire
Carlton, Fields et al
P.O. Box 2861
St. Petersburg, FL 33733

William G. Walker, III
Vice President, Regulatory Affairs
Florida Power & Light Co.
9250 West Flagler St.
Miami, FL 33174

Lee L. Willis, Esquire
Ausley & McMullen
P.O. Box 391
Tallahassee, FL 32302

William B. Willingham, Esquire
Michelle Hershel, Esquire
FL Electric Cooperatives Assoc., Inc.
P.O. Box 590
Tallahassee, FL 32302

Terry L. Kammer, COPE Director
System Council U-4, IBEW
3944 Florida Blvd., Suite 202
Palm Beach Gardens, FL 33410

Susan D. Cranmer
Asst. Secretary & Asst. Treasurer
Gulf Power Company
One Energy Place
Pensacola, FL 32520-0780

John Schantzen
System Council U-4, IBEW
3944 Florida Blvd., Suite 202
Palm Beach Gardens, FL 33410

Jeffrey A. Stone, Esquire
Beggs & Lane
P.O. Box 12950
Pensacola, FL 32576-2950

J. Roger Howe, Esquire
Office of Public Counsel
111 W. Madison Ave., Room 812
Tallahassee, FL 32399-1400


Attorney