

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 26, 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 SECOND
REQUEST FOR PRODUCTION OF DOCUMENTS (14-38)

Duke Energy New Smyrna Beach Power 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")
Second Request for Production of Documents (Nos. 14-38) which
were served on Duke New Smyrna on October 15, 1998.

GENERAL OBJECTIONS

Duke New Smyrna objects to FPL's Second Request for
Production of Documents (Nos. 14-38) on the grounds set forth in
paragraphs A - D below. Each of Duke New Smyrna's responses will
be subject to and qualified by these general objections.

A. Duke New Smyrna objects to the production of documents
in the offices of FPL's attorneys, Steel Hector and Davis,
L.L.P., at 215 South Monroe Street, Suite 601, Tallahassee,
Florida 32301. Pursuant to Rule 1.350, Florida Rules 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."), the requested documents that are not subject to another objection will be produced where those documents are kept in the usual course of business or at a place that is mutually acceptable to the parties.

B. Duke New Smyrna objects to FPL's request that the documents be produced no later than 14 days after service. Rule 1.350, F.R.C.P., requires that documents be produced within 30 days of service of a request to produce. 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 Alternate Discovery Schedule, filed with the Commission on October 19, 1998, that it will agree to respond to discovery requests, including FPL's, within 20 days of service.

C. Duke New Smyrna objects to the production of any documents that constitute attorney work product or are subject to the attorney-client privilege.

D. As stated specifically below, Duke New Smyrna objects to those of FPL's document production requests that ask for confidential, proprietary business information. Moreover, Duke New Smyrna does not have a 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 Second Request for Production of Documents (Nos. 14-38). Duke New Smyrna's specific objections are numbered to correspond with the numbers of FPL's requests to produce.

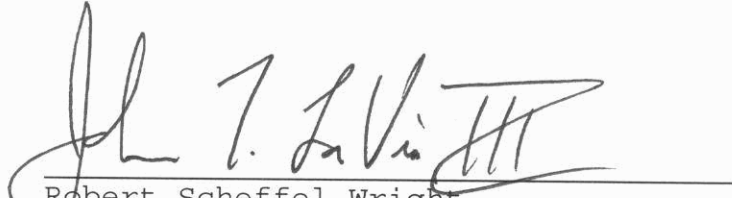
19. Duke New Smyrna objects to this request on the grounds that it seeks confidential, proprietary business information. Duke New Smyrna will attempt to respond to this request to the extent possible with non-confidential, non-proprietary information.

20. Duke New Smyrna objects to this request on the grounds that it seeks confidential, proprietary business information. Duke New Smyrna will attempt to respond to this request to the extent possible with non-confidential, non-proprietary information.

21. Duke New Smyrna objects to this request on the grounds that it seeks confidential, proprietary business information. Duke New Smyrna will attempt to respond to this request to the extent possible with non-confidential, non-proprietary information.

34. Duke New Smyrna objects to this interrogatory on the ground that it is vague (as to the meaning of "marketing materials"), overbroad, and seeks confidential, proprietary business information.

Respectfully submitted this 26th day of October, 1998.

A handwritten signature in black ink, appearing to read "John T. LaVia, III". The signature is written in a cursive style with a large initial "J" and a long horizontal stroke at the end.

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 26th 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

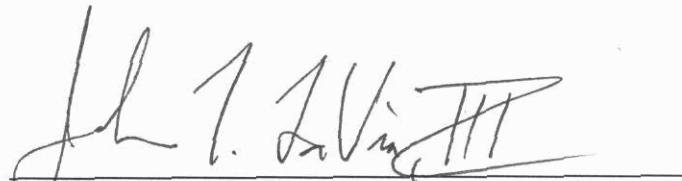
Terry L. Kammer, COPE Director
System Council U-4, IBEW
3944 Florida Blvd., Suite 202
Palm Beach Gardens, FL 33410

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