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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

RECORDS AND REPORTING

In Re: Joint Petition for )  
Determination of Need for an )  
Electrical Power Plant in Volusia )  
County by the Utilities Commission, )  
City of New Smyrna Beach, Florida )  
and Duke Energy New Smyrna Beach )  
Power Company Ltd., L.L.P. )  
\_\_\_\_\_ )

DOCKET NO. 981042-EM

FILED: August 19, 1998

**FLORIDA WILDLIFE FEDERATION'S PETITION TO INTERVENE**

COMES NOW the FLORIDA WILDLIFE FEDERATION, by and through its undersigned attorney, and hereby requests leave to intervene in the above matter pursuant to F.A.C. Rule 25-22.039, and in support thereof, states as follows:

1. The name of the Intervenor is the FLORIDA WILDLIFE FEDERATION whose address for the purposes of this matter is that of their attorney listed below and upon whom all papers and pleadings should be served.

2. The Petitioners are those listed in the heading above whose addresses for the purposes of these proceedings are as stated in their Joint Petition For

Determination of Need heretofore filed in this matter.

3. The name and address of the affected agency is:

Florida Public Service Commission

2540 Shumard Oak Blvd.

Tallahassee, Florida 32399-0850

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FPSC-RECORDS/REPORTING

### **SUBSTANTIAL INTEREST OF INTERVENORS**

4. FLORIDA WILDLIFE FEDERATION (FWF) is a non-profit Florida corporation with over 13,000 members who reside within the state and whose main purpose is to protect, manage and conserve Florida's wildlife, for the benefit of the people of the State of Florida, the wildlife, FWF and its members. Numerous members of the organization hunt, fish, observe, study and photograph wildlife throughout the state. Approval of the Joint Petition would result in injury or harm to Florida's wildlife populations, causing them to decline and not be available for the benefits of FWF and its members as stated further below. FWF and its members are substantially affected by the issues to be determined in these proceedings.

### **DISPUTED ISSUES OF MATERIAL FACT**

5. Approval of the application will allow the proliferation of merchant or spec power plants in Florida that will produce numerous types of pollution, cause destruction of wetlands and other important habitats, increase use of ground and surface water for cooling that will have a negative impact on fish and wildlife populations within the state, while the power is not necessarily produced to meet the needs of this state.

6. Approval of this application will place the entity selling excess power in the position of a primary promoter of growth in the area it locates, causing greater growth than presently planned, resulting in substantial negative impacts on fish and wildlife populations within the state.

7. Because the plant sought is not needed in Florida, air pollution resulting from the plant will be in addition to air pollution discharged from facilities that are

needed, causing higher and unnecessary rates of air pollution that will result in injury to the state's vegetation and wildlife.

8. FWF alleges that the proposed facility will not meet the need requirements of law and Commission rule, and in support thereof, adopts the issues of fact and ultimate facts alleged supporting this position by the other intervenors in this matter who oppose the application for Determination of Need.

### **POSITION OF INTERVENORS**

9. The Intervenor opposes the application for Determination of Need by the Joint Petitioners.

### **STATUTES AND RULES ENTITLING INTERVENORS TO RELIEF**

10. The following statutes and rules entitle FWF to relief: Rules 28-106 and 25-22 F.A.C.; Chapters 120, 366 and 403, Florida Statutes. FWF reserves the right to rely on additional legal authority.

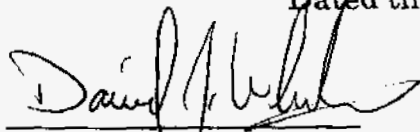
### **REQUEST FOR LIMITED PARTICIPATION**

11. The Intervenor does not intend to present testimony or evidence at the final hearing in this matter, but requests that it be permitted to submit a written position statement to the Commission and present comments as part of the public comment portion of the Commission agenda.

### **REQUEST FOR RELIEF**

WHEREFORE the Intervenor requests that FWF be permitted to intervene in opposition to the above application.

Dated this 13th day of November, 1998.



David J. White  
4804 S.W. 45<sup>th</sup> Street, Suite 100  
Gainesville, FL 32608  
Fl. Bar No. 000440

Attorney for FLORIDA WILDLIFE FEDERATION

**CERTIFICATE OF SERVICE**

I hereby certify that a true copy of the above has been delivered by U.S. Mail, postage paid, to the following counsel of record: Robert Schefel Wright, Esq., Landers and Parsons, P.A., POB 271, Tallahassee, Florida 32302 for Duke Energy New Smyrna Beach Power Company; William B. Willingham, Esq., POB 14042, St. Petersburg, Florida 33733 and Gary L. Sasso, Esq., Carlton Fields Ward Emmanuel Smith & Cutler, P.A., POB 2861, St. Petersburg, Florida 33731 (on behalf of the Florida Electric Cooperatives Association, Inc.; James A. McGee, Esq., POB 14042, St. Petersburg, Florida 33731 (for Florida Power Corporation), Charles A. Guyton, Esq. and Matthew M. Childs, Esq., Steel Hector & Davis, LLPm 215 S. Monroe St., Suite 601, Tallahassee, Florida 32301 (for Florida Power and Light); Lee L. Willis, Esq., and James D. Beasley, Esq., Ausley & McMullen, POB 391, Tallahassee, Florida 32302 for Tampa Electric Company), Gail Kamaras, Esq. and Debra Swim, Esq., 1114 Thomasville Rd., Suite E, Tallahassee, Florida 32303 (for Legal Environmental Assistance Foundation, Inc.) and Leslie J. Paugh, Esq. and Grace A. Jaye, Esq., Florida Public Service Commission, 2540 Shumard Oak Blvd., Tallahassee, Florida 32399-0850 on the date specified above.

By: 