

ORIGINAL

STATE OF FLORIDA

980864-EI

Commissioners:  
JULIA L. JOHNSON, CHAIRMAN  
J. TERRY DEASON  
SUSAN F. CLARK  
JOE GARCIA  
E. LEON JACOBS, JR.



DIVISION OF LEGAL SERVICES  
NOREEN S. DAVIS  
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# Public Service Commission

November 24, 1998

Division of Administrative Hearings  
Ms. Ann Cole, Clerk  
1230 Apalachee Parkway  
Tallahassee, Florida 32399

**Re: Re: Case No. 98-5067 - Albert Sadaka, Petitioner, vs. Florida Power & Light Company, Respondent**

Dear Ms. Cole:

Enclosed are the original and one copy of the Florida Public Service Commission's Motion for Leave to Intervene in the above case. Please date stamp the additional copy and return in the enclosed postage paid envelope. Thank you.

Sincerely,

Grace A. Jaye  
Staff Attorney

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STATE OF FLORIDA  
- DIVISION OF ADMINISTRATIVE HEARINGS

ALBERT SADAKA,	)	
Petitioner,	)	DOAH Case No. 98-5067
	)	980864-EI
vs.	)	
	)	
FLORIDA POWER AND LIGHT CO.,	)	
Respondent.	)	
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MOTION FOR LEAVE TO INTERVENE

The FLORIDA PUBLIC SERVICE COMMISSION (Commission), by and through its undersigned counsel, requests that the Administrative Law Judge grant leave to intervene in the above-styled cause for the reasons set forth below.

1. This case was initiated by the filing of a complaint with the Commission by Albert Sadaka against Florida Power & Light Company (FPL). Mr. Sadaka complained that FPL improperly backbilled him in the amount of \$15,451.79 for alleged unbilled energy and investigative charges from March 19, 1991, through March 21, 1997.

2. At the Florida Public Service Commission Agenda Conference held October 6, 1998, the Commission voted to refer Mr. Sadaka's complaint to the Division of Administrative Hearings for a formal hearing. Section 120.569(2)(a), Florida Statutes, states that once a case is referred to DOAH the "referring agency shall take no further action with respect to the formal proceedings, except as a party litigant," as long as DOAH has jurisdiction over the formal proceeding.

5. FPL supplies electricity to the public and is, therefore, a public utility as defined in Section 366.02(1), Florida Statutes. Pursuant to Section 366.04(1), Florida Statutes, the Commission has exclusive jurisdiction "to regulate and supervise each public utility with respect to its rates and service." Thus, the Commission has exclusive jurisdiction over the subject matter of this proceeding, and, therefore, has an interest in the proceeding.

6. The Commission is neither an adversary to, nor advocate for, either party. Pursuant to Chapter 366, Florida Statutes, the Commission's primary duty is to protect the public interest.

7. Commission staff may participate as a party in any proceeding involving the jurisdiction of the Public Service Commission. The Commission staff's primary role is to represent the public interest and be neither in favor or against either party. Staff's primary function in participating in proceedings before the Division of Administrative Hearings is to assist in developing evidence to ensure that all relevant factual, legal, and policy issues are presented to the fact-finder. Staff's final positions will be based upon review of the complete record.

8. The Commission has been granted intervention in similar cases that have been referred to DOAH. See, Blanca Rodriguez v. Florida Power & Light Company, Case No. 96-4935; Thomas L. Fuller v. Florida Power Corporation, Case No. 95-4253; Globe International Realty & Mortgage Corporation v. Florida Power & Light Company, Case No. 95-2514; Jory Bricker v. Florida Power Corporation, Case No. 93-5713; Janet Knauss v. Florida Power & Light Company, Case

No. 91-4910; Larry Timm v. Florida Power & Light Company, Case No. 91-2755, Arturo Toboada v. Florida Power & Light Company, Case No. 91-0331.

WHEREFORE, the Florida Public Service Commission respectfully requests that its Motion for Leave to Intervene be granted and the Commission be allowed to intervene in these proceedings while reserving its statement of position pending the evidence developed at the hearing.

Respectfully submitted this 24<sup>th</sup> day of November, 1998.

A handwritten signature in cursive script, appearing to read "Grace A. Jaye", is written over a horizontal line.

GRACE A. JAYE, ESQUIRE

Florida Bar No. 0847143

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