

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

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
ORDER NO. PSC-98-1580-PCO-EM
ISSUED: November 25, 1998

PROTECTIVE ORDER

On November 4, 1998, Petitioners, Utilities Commission, New Smyrna Beach, Florida and Duke Energy New Smyrna Beach Power Company Ltd., L.L.P. filed Notices Of Taking Depositions of FPL Group, FPL Energy, Inc., and Florida Power & Light (FPL). The Notices were filed pursuant to Rule 1.310(b)(6), Florida Rules of Civil Procedure, and requested that Florida Power & Light's corporate entities designate corporate representatives to give testimony.

On November 10, 1998, FPL Group, FPL Energy Inc., and FPL filed Motions for Protective Order that the depositions not be had. The Motions for Protective Order allege with specificity the impropriety of the subject matter areas set forth in the notices of deposition. In addition, the Motions allege that the depositions are for the purpose of harassment and are beyond the scope of this proceeding.

On November 13, 1998, Petitioners filed a Response In Opposition to the three Motions for Protective Order and Request for Expedited Ruling. As grounds for its' opposition to FPL's and its affiliates Motions for Protective Order, Petitioners state that contrary to FPL's assertions of harassment, the depositions were reasonably calculated to lead to discovery of admissible evidence for use at the hearing in this docket.

DOCUMENT NUMBER-DATE

13308 NOV 25 88

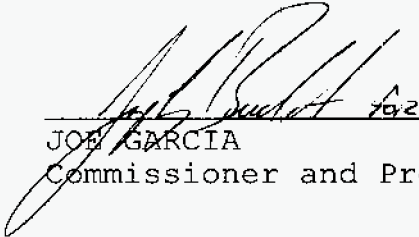
FPSC-RECORDS/REPORTING

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Having considered the pleadings of the parties and based on the foregoing, it is

ORDERED that the Protective Order against the taking of the depositions of corporate representatives of FPL Group, FPL Energy, Inc., and FPL is hereby GRANTED.

By ORDER of Commissioner Joe Garcia, as Prehearing Officer, this 25th day of November, 1998.



JOE GARCIA
Commissioner and Prehearing Officer

(S E A L)

LJP/GAJ

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

Mediation may be available on a case-by-case basis. If mediation is conducted, it does not affect a substantially interested person's right to a hearing.

Any party adversely affected by this Order, which is preliminary, procedural or intermediate in nature, may request: (1) reconsideration within 10 days pursuant to Rule 25-22.0376, Florida Administrative Code, if issued by a Prehearing Officer; (2)

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reconsideration within 15 days pursuant to Rule 25-22.060, Florida Administrative Code, if issued by the Commission; or (3) judicial review by the Florida Supreme Court, in the case of an electric, gas or telephone utility, or the First District Court of Appeal, in the case of a water or wastewater utility. A motion for reconsideration shall be filed with the Director, Division of Records and Reporting, in the form prescribed by Rule 25-22.060, Florida Administrative Code. Judicial review of a preliminary, procedural or intermediate ruling or Order is available if review of the final action will not provide an adequate remedy. Such review may be requested from the appropriate court, as described above, pursuant to Rule 9.100, Florida Rules of Appellate Procedure.