

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
FILED: DECEMBER 4, 1998

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REQUEST FOR JUDICIAL NOTICE

The Utilities Commission, City of New Smyrna Beach, Florida ("UCNSB") and Duke Energy New Smyrna Beach Power Company, Ltd., L.L.P. ("Duke New Smyrna") hereby request that the Commission take judicial notice of the following Orders of the Florida Public Service Commission and the Federal Energy Regulatory Commission:

1. Order No. 9749, issued January 16, 1981, Docket No. 800595-EU (TECO - Big Bend 4).
2. Order No. 10108, issued June 26, 1981, Docket No. 810045-EU (JEA/FPL - St. John's River Park Units 1 and 2).
3. Order No. 10320, issued October 2, 1981, Docket No. 810180-EU (Orlando Utilities Commission - Stanton Energy Center Unit 1).
4. Order No. PSC-94-1313-FOF-EG, issued October 25, 1994, Dockets Nos. 930548-EG, 930549-EG, 930550-EG, and 930551-EG (FPL, FPC, Gulf Power, and TECO - Conservation Goals).
5. 75 F.E.R.C. P61,278; 1996 FERC LEXIS 1237, June 11, 1996, TECO EnergySource, Inc. - market-based rates.
6. 78 F.E.R.C. P63,009; 1997 FERC LEXIS 398, March 4, 1997, Southern Company Services, Inc. - market-based rates.
7. 75 F.E.R.C. P61,130; 1996 FERC LEXIS 729, April 30, 1996, Southern Company Services, Inc. - market-based rates.
8. 81 F.E.R.C. P61,107; 1997 FERC LEXIS 2340, October 29, 1997, Florida Power & Light Company - market-based

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LIN 5
OPC _____
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SEC 1
WAS _____
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rates.

9. 79 F.E.R.C. P61,385; 1997 FERC LEXIS 1596, June 26, 1997, Florida Power Corporation - market-based rates.
10. 76 F.E.R.C. P61,155; 1996 FERC LEXIS 1368, August 2, 1996, Progress Power Marketing, Inc. - market-based rates.

The preceding are all published orders of the Florida Public Service Commission and the Federal Energy Regulatory Commission.

The UCNSB and Duke New Smyrna also request that the Commission take judicial notice of the following item attached hereto:

11. North Carolina Utilities Commission, Docket No. FP-132, Rockingham Power, LLC, Certificate of Public Convenience and Necessity for Construction of Electric Generation, Preliminary Engineering Plans for a New Generation Facility, October 1, 1998.

The copy of this filing, a public document filed with the Chief Clerk of the North Carolina Utilities Commission, is directly relevant to discussion relating to Duke Power's position with respect to merchant power plants in its home states of North Carolina and South Carolina, which position has been called into question by Florida Power Corporation.

Respectfully submitted this 4th day of December, 1998.



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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 4th day of December, 1998:

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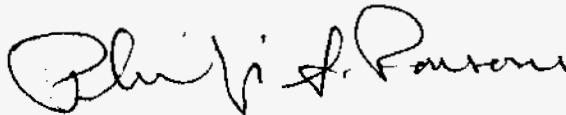
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