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January 12, 1999

VIA HAND DELIVERY

Blanca S. Bayo, Director
Division of Records and Reporting
Gunter Building
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0870

RECEIVED-FPSC
53 JAN 12 AM 4:29
RECORDS AND
REPORTING

Re: Docket No. 981390-EI

Dear Ms. Bayo:

Enclosed for filing and distribution are the original and fifteen copies of Tropicana Products, Inc.'s Petition On Proposed Agency Action in the above docket.

Please acknowledge receipt of the above on the extra copy enclosed herein and return it to me. Thank you for your assistance.

Sincerely,

ACK _____
AFA 3 *Vicki Gordon Kaufman*
APP _____

CAF _____ Vicki Gordon Kaufman

GMU _____ VGK/pw

CTR _____ Encls.

EAG _____

LEG 1 _____

LIN 5 _____

OPC _____

RCH _____

SIC 1 _____

WAS _____

OTH *by Hong* _____

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[Signature]
FPSO BUREAU OF RECORDS

DOCUMENT NUMBER-DATE

00442 JAN 12 99

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Investigation into the Equity)	Docket No. 981390-EI
Ratio and Return on Equity of Florida)	
Power & Light Company.)	Filed: January 12, 1999
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**TROPICANA PRODUCTS, INC.'S
PETITION ON PROPOSED AGENCY ACTION**

Tropicana Products, Inc. (Tropicana) files this Petition challenging Proposed Agency Action Order No. PSC-98-1748-FOF-EI. As grounds therefor, Tropicana states:

Identification of Petitioner

1. The name and address of Petitioner is:

Tropicana Products, Inc.
c/o Matt Kane
1001 13th Avenue East
Bradenton, Florida 34208

2. All pleadings, orders and correspondence should be directed to:

Tropicana Products, Inc.
c/o John W. McWhirter, Jr.
McWhirter Reeves
400 North Tampa Street, Suite 2450 (33602-5126)
Post Office Box 3350
Tampa, Florida 33601-3350

Joseph A. McGlothlin
Vicki Gordon Kaufman
McWhirter Reeves
117 South Gadsden Street
Tallahassee, Florida 32301

3. Tropicana is a Florida Power & Light (FPL) customer, located in FPL's service area. The cost of electricity constitutes one of Tropicana's largest variable costs.

DOCUMENT NUMBER-DATE

00442 JAN 12 99

FPSC-RECORDS/REPORTING

4. In Order No. PSC-98-1748-FOF-EI, the Commission approved, as Proposed Agency Action (PAA), FPL's proposal concerning return on equity and equity ratio.¹ Among other things, the PAA permits FPL to extend its amortization plan and to include additional items to be amortized. It sets FPL's return on equity at a mid-point of 11.2% and returns no money to customers.

5. As an FPL customer, the Commission's decision in this matter will adversely affect Tropicana's substantial interests.

Disputed Issues of Material Fact

6. Disputed issues of fact include, but are not limited to, the following:

a. Whether it is in the best interest of FPL ratepayers to extend and increase FPL's amortization plan and to include in it the cost of reacquired debt; nuclear and fossil plant investment/dismantlement; and spent nuclear fuel;

b. Whether it is reasonable to include in the expanded amortization plan regulatory assets that have not yet even been defined;

c. Whether the expanded amortization plan results in intergenerational inequity;

d. Whether the return on equity (ROE) set in the PAA is reasonable given current facts and circumstances;

e. Whether FPL's equity ratio is reasonable given current facts and circumstances; and

¹Though the PAA refers to a "settlement," none of the parties who participated in negotiations with FPL prior to the PAA joined in the proposal FPL proffered.

f. Whether it is reasonable to treat FPL's purchase power obligations as debt in the regulatory context.

Ultimate Facts Alleged

7. Ultimate facts alleged include, but are not limited to, the following:

a. Extending and increasing the amount attributable to the FPL amortization plan is not in the best interest of ratepayers. Such amounts should be used to reduce current rates and/or be refunded to customers;

b. FPL's amortization plan does not benefit ratepayers. The ROE and equity structure set out in the PAA are unreasonable given today's financial markets;

c. It is unreasonable to include in the expanded plan regulatory assets that have not yet been defined or approved;

d. FPL's debt/equity ratio is unreasonable given today's financial markets;

e. It is unreasonable to treat FPL's purchase power obligations as debt; and

f. The expanded plan results in intergenerational inequity.

Rules and Statutes Entitling Tropicana to Relief

Sections 57.105(2), 366.041 and 366.06, Florida Statutes, entitle Tropicana to relief.

WHEREFORE, Tropicana requests that:

1. The Commission conduct an evidentiary hearing on the matters in dispute;

2. The Commission reject FPL's expanded amortization proposal;

3. The Commission refund \$140 million and reduce FPL's base rates;

4. The Commission award attorneys fees and costs to consumer advocates as it does

for utility attorneys' fees and costs; and

5. The Commission grant such other relief as necessary.

Vicki Gordon Kaufman

John W. McWhirter, Jr.

Joseph A. McGlothlin

Vicki Gordon Kaufman

McWhirter, Reeves, McGlothlin,

Davidson, Decker, Kaufman,

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400 North Tampa Street

Suite 2450 (33602-5126)

Post Office Box 3350

Tampa, Florida 33601-3350

Attorneys for Tropicana Products, Inc.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of **Tropicana's** foregoing **Petition On Proposed Agency Action** has been furnished by hand delivery (*) or by U.S. Mail to the following parties of record this **12th** day of **January, 1999**:

Robert V. Elias*
Florida Public Service Commission
Division of Legal Services
2540 Shumard Oak Boulevard
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Tallahassee, Florida 32399-0850

John Roger Howe
Office of Public Counsel
c/o The Florida Legislature
111 West Madison Street
Room 812
Tallahassee, Florida 32399-1400

Matthew M. Childs
Steel Hector & Davis
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Vicki Gordon Kaufman