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IN THE SUPREME COURT OF THE STATE OF FLORIDA

FLORIDA POWER CORPORATION,

Appellant,

vs.

CASE NO. 94,665

JOE GARCIA, etc., et. al.,

980509-ED

Appellees.

FLORIDA POWER CORPORATION'S
RESPONSE TO LAKE COGEN'S MOTION TO CONSOLIDATE

Appellant, Florida Power Corporation ("FPC"), by its undersigned counsel attorneys, responds to Lake Cogen, Ltd's ("Lake") Motion to Consolidate, which was served on April 23, 1999.

1. Appellant, FPC, does not object to Lake's Motion to Consolidate at this time. Lake seeks to consolidate this case with Case No. 94,664. The appellees in Case No. 94,664, Miami-Dade County and Montenay-Dade, Ltd., have also filed motions to consolidate. This Court should note, however, that the procedural posture underlying Case Nos. 94,664, 94,665 are quite different, and because of the difference, Case Nos. 94,664 and 94,665 may need to be severed in the future. Among other things, the trial proceedings between FPC and Lake, on the one hand, and FPC and Dade and Montenay, on the other hand, have proceeded at disparate paces. The present procedural posture does not preclude consolidation, however, FPC reserves

the right to sever the cases if the differing procedural postures become relevant in this appeal.

2. Any consolidation should recognize that FPC will continue to be represented by separate counsel in the Lake and Montenay/Dade matters, including these different appeals, and

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FPSC-RECORDS/REPORTING

will be presenting separate briefs and oral arguments, as its interests may appear.

Respectfully submitted,

Rodney Gaddy FBN 314943
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FLORIDA POWER CORPORATION



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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by U.S. Mail to Director, Division of Records and Reporting, Florida Public Service Commission, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32349-9850; Richard C. Bellack, Division of Appeals, Florida Public Service Commission, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850; John Beranek and Lee L. Willis, Ausley & McMullen, 227 South Calhoun Street, Tallahassee, Florida 32301; John R. Marks, III, Knowles, Marks & Randolph, P.A., 215 South Monroe Street, Suite 130, Tallahassee, Florida 32301; Robert Scheffel Wright and John T. LaVia, III, Landers & Parsons, 310 West College Avenue, Post Office Box 271, Tallahassee, Florida 32302, Gail P. Fels, Office of the County Attorney, Dade County Aviation Division, Post Office Box 592075 AMF, Miami, Florida 33159 and Sylvia H. Walbolt, Carlton, Fields, Ward, Emmanuel, Smith & Cutler, P.A., Post Office Box 3239, Tampa, Florida 33601-3239 this 31st day of May, 1999.

6658-007/650181



Attorney