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Public Service Commission

August 30, 1999

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REPORTING

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Division of Administrative Hearings
1230 Apalachee Parkway
Tallahassee, FL 32399

Re: Case No. 99-3446: David E. Roomes v Florida Power & Light Company (PSC Docket No. 990689-EI)

Dear Clerk:

Attached are the original and two copies of the Florida Public Service Commission's Motion for Leave to Intervene to be filed in the above referenced case. Please date stamp the additional copy and return to me in the enclosed postage-paid envelope. Thank you.

Yours truly,

Grace A. Jaye
Staff Counsel

- AFA _____
- APP _____
- CAF _____
- CMU _____
- CTR _____
- EAG _____
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cc: Division of Records and Reporting (Bayo)

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PPSC-RECORDS/REPORTING

STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

DAVID E. ROOMES)	DOAH Case No. 99-3446
Petitioner,)	990689-EI
vs.)	
)	
FLORIDA POWER & LIGHT CO.,)	
Respondent.)	
_____)	

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 David E. Roomes against Florida Power & Light Company (FPL). Mr. Roomes complained of the quality of electrical service provided to his residence by FPL.

2. At the Florida Public Service Commission Agenda Conference held July 27, 1999, the commission voted to refer Mr. Roomes' 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. Pursuant to the Commission's Statement of Agency Organization & Operations (1999), subsection entitled "Parties," page 11:

The Commission staff may participate as a party in any proceeding. Their primary duty is to represent the public interest and see that all relevant facts and issues are clearly brought before the Commission for its consideration.

In cases assigned to the Division of Administrative Hearings, the Commission staff's role is to represent the public interest and be neither in favor nor against any particular party, unless the Commission is enforcing rules or statutes through a show cause or similar proceeding, or unless the Commission is a respondent at the Division of Administrative Hearings. Staff is not a party in interest and has no substantial interests that may be affected by the proceeding. Commission staff's role shall be to assist in developing evidence to ensure a complete record so that all relevant facts and issues are presented to the fact finder. Any position that staff has prior to the hearing is preliminary; final positions are based upon review of the complete record. 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 Tobaoda v. Florida Power & Light Company, Case No. 91-0331.

9. Pursuant to Rule 28-106.204(3), Florida Administrative Code, the undersigned consulted with both parties to the litigation. On August 24, 1999, FPL stated that it had no objection to this motion. On August 26, 1999, Mr. Roomes stated that he had no objection to this motion.

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 30th day of August, 1999.



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COPIES FURNISHED

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