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September 7, 1999

Blanca S. Bayó, Director
Records and Reporting
Florida Public Service Commission
4075 Esplanade Way, Room 110
Tallahassee, Florida 32399-0850

By Hand Delivery

Re: DOCKET NO. 981890-EU

Dear Ms. Bayó:

Enclosed for filing on behalf of Florida Power & Light Company ("FPL") in Docket No. 981890-EU are the original and fifteen (15) copies of Objections to LEAF's First Set of Interrogatories to Florida Power & Light Company.

If you or your staff have any questions regarding this filing, please contact me.

Very truly yours,



Charles A. Guyton

AFA 2
APP Enclosure
CAF cc: Parties of Record
CMU _____
CTR _____
EAG 1 TAL 1998/32082-1
LEG 1
MAS 5
OPC _____
PAI 2
SEC 1
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SAO PAULO RIO DE JANEIRO
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ORIGINAL

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

IN RE: Generic Investigation) DOCKET NO. 981890-EI
Into the Aggregate Electric)
Utility Reserve Margins Planned) DATE: September 7, 1999
for Peninsular Florida)

**FLORIDA POWER & LIGHT COMPANY'S
OBJECTIONS TO LEAF'S FIRST INTERROGATORIES
TO FLORIDA POWER & LIGHT COMPANY**

Florida Power & Light Company ("FPL"), pursuant to Order No. PSC-99-0760-PCO-EU (without waiving its continued position that the conduct of this investigation as a proceeding to determine substantial interests is improper) objects to LEAF'S FIRST INTERROGATORIES TO FLORIDA POWER & LIGHT COMPANY (NOS. 1-12) in Docket No. 981890-EU.

GENERAL OBJECTION

This docket is not appropriate for discovery because it is a generic investigation proceeding. The Commission has voted to conduct an investigation. The investigation is preliminary to agency action (the Commission has not taken agency action or proposed agency action). Under the Administrative Procedure Act, an investigation is not to be conducted as a §120.57 proceeding. Section 120.57(5), Fla. Stat. (1997) ("This section does not apply to agency investigations preliminary to agency action.") Similarly,

under the Uniform Rules of Procedure adopted pursuant to the APA, the rules governing decisions determining substantial interests, Chapter 28-106, do not apply to "agency investigations or determinations of probable cause preliminary to agency action." Rule 28.106.101, F.A.C. Discovery in Commission proceedings is limited to proceedings in which substantial interests are being determined. Since an investigation is not, under the APA, a proceeding in which substantial interests are determined and the rules governing the determination of substantial interests do not apply, discovery is not appropriate in this investigation.

SPECIFIC OBJECTIONS

1. Discovery in the form of interrogatories is not appropriate in a Commission investigation. The question is vague. It is not clear what is meant by "assign an availability factor," even though availability factor is defined. Nor is it clear what is meant by the phrase "available during peak 50% of the time." Peak is not defined as one or more periods nor is any duration given.

2. Discovery in the form of interrogatories is not appropriate in a Commission investigation. The question is vague. It is not clear what is meant by "assign an availability factor," even though availability factor is defined. Nor is it clear what

is meant by the phrase "available during peak 50% of the time." Peak is not defined as one or more periods nor is any duration given.

3. Discovery in the form of interrogatories is not appropriate in a Commission investigation. The question is vague. It is not clear what is meant by "assign an availability factor," even though availability factor is defined. Nor is it clear what is meant by the phrase "available during peak 50% of the time." Peak is not defined as one or more periods nor is any duration given.

4. Discovery in the form of interrogatories is not appropriate in a Commission investigation. The question is vague. It is not clear how availability is related to dispatchability.

5. Discovery in the form of interrogatories is not appropriate in a Commission investigation. The question is vague. It is unclear what is meant by "capacity value for energy service facilities" even though energy service facilities is a defined term.

6. Discovery in the form of interrogatories is not appropriate in a Commission investigation. The question is vague.

It is unclear what is meant by "capacity value for energy service facilities" even though energy service facilities is a defined term.

7. Discovery in the form of interrogatories is not appropriate in a Commission investigation. The question is vague. It is unclear what is meant by "capacity value for energy service facilities" even though energy service facilities is a defined term.

8. Discovery in the form of interrogatories is not appropriate in a Commission investigation. The question is vague. It is unclear what is meant by "capacity value for energy service facilities" even though energy service facilities is a defined term.

9. Discovery in the form of interrogatories is not appropriate in a Commission investigation. The question is vague. It is unclear what is meant by "capacity value for energy service facilities" even though energy service facilities is a defined term.

10. Discovery in the form of interrogatories is not appropriate in a Commission investigation. This question is not

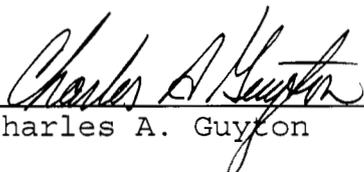
relevant to the subject matter of this proceeding and is not likely to lead to the discovery of relevant or admissible evidence. This question asks for information related to an issue that was dropped from consideration in this proceeding. This question also calls for the disclosure of information which is confidential and proprietary to FPL. This question is also unduly burdensome, requiring FPL to perform an analysis of data that it has not performed.

11. Discovery in the form of interrogatories is not appropriate in a Commission investigation.

12. Discovery in the form of interrogatories is not appropriate in a Commission investigation.

Respectfully submitted,

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Attorneys for Florida Power
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By: 
Charles A. Guyton

CERTIFICATE OF SERVICE
DOCKET NO. 981890-EU

I HEREBY CERTIFY that a true and correct copy of Florida Power & Light Company's Objections to LEAF's First Interrogatories to Florida Power & Light Company was furnished by Hand Delivery* or U.S. Mail this 7th day of September, 1999 to the following:

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