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**ORIGINAL**

September 20, 1999

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

By Hand Delivery

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09 SEP 20 PM 4:51  
RECORDS AND REPORTING

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 FIPUG's First Request for Production of Documents 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

Enclosure

cc: Parties of Record

- AFA 2
- APP \_\_\_\_\_
- CAF \_\_\_\_\_
- CMU \_\_\_\_\_
- CTR \_\_\_\_\_
- EAG 1
- LEG \_\_\_\_\_
- MAS 5
- OPC \_\_\_\_\_
- PAI 2
- SEC 1
- WAW \_\_\_\_\_
- OTH \_\_\_\_\_

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DOCUMENT NUMBER-DATE

11279 SEP 20 99

**BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

IN RE: Generic Investigation            )     DOCKET NO. 981890-EU  
Into the Aggregate Electric            )     DATE: September 20, 1999  
Utility Reserve Margins Planned        )       
for Peninsular Florida                 )

**FLORIDA POWER & LIGHT COMPANY’S OBJECTIONS TO FIPUG’S FIRST  
REQUEST FOR PRODUCTION OF DOCUMENTS TO FLORIDA POWER & LIGHT  
COMPANY (NOS. 1-6)**

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 FIPUG’S FIRST REQUEST FOR PRODUCTION OF DOCUMENTS TO FLORIDA POWER & LIGHT COMPANY (NOS. 1-6) 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.

FPL objects to the instructions provided to the extent they are inconsistent with or go beyond the requirements of the Florida Rules of Civil Procedure. In particular, but not limited to, FPL objects to the production of documents at date and place specified in the request, instructions as to FRCC documents, and instructions as to documents no longer in the Company’s control.

#### SPECIFIC OBJECTIONS

1. Discovery pursuant to the Uniform Rules of Procedure and by incorporation of reference the Florida Rules of Civil Procedure is not appropriate in a Commission investigation. The question is vague. It is not clear what is meant by the term “curtailments.” FPL has a curtailable rate that is a non-firm service. It is unclear whether the term curtailments refers to FPL’s curtailable rate or has some broader meaning.

2. Discovery pursuant to the Uniform Rules of Procedure and by incorporation of reference the Florida Rules of Civil Procedure is not appropriate in a Commission investigation. The question is vague. It is not clear what is meant by the term “curtailments.” FPL has a curtailable rate that is a non-firm service. It is unclear whether the term curtailments refers to FPL’s curtailable rate or has some broader meaning.

3. Discovery pursuant to the Uniform Rules of Procedure and by incorporation of reference the Florida Rules of Civil Procedure is not appropriate in a Commission investigation. The question is vague. It is not clear what is meant by the term “curtailments.” or the phrase “the non-firm load that FPL proposes to exclude in its proposed reserve margin calculation.” FPL has a curtailable rate that is a non-firm service. It is unclear whether the term curtailments refers to FPL’s curtailable rate or has some broader meaning. FPL does not understand the phrase “the non-firm load that FPL proposes to exclude in its proposed reserve margin calculation.” Please provide the reference to FPL’s testimony or some other FPL document from which this phrase is taken.

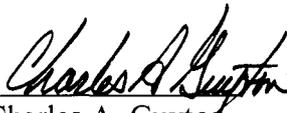
4. Discovery pursuant to the Uniform Rules of Procedure and by incorporation of reference the Florida Rules of Civil Procedure is not appropriate in a Commission investigation. The question is vague. It is not clear what is meant by the term “curtailments.” or the phrase “the non-firm load that FPL proposes to exclude in its proposed reserve margin calculation.” FPL has a curtailable rate that is a non-firm service. It is unclear whether the term curtailments refers to FPL’s curtailable rate or has some broader meaning. FPL does not understand the phrase “the non-firm load that FPL proposes to exclude in its proposed reserve margin calculation.” Please provide the reference to FPL’s testimony or some other FPL document from which this phrase is taken.

5. Discovery pursuant to the Uniform Rules of Procedure and by incorporation of reference the Florida Rules of Civil Procedure is not appropriate in a Commission investigation. FPL further objects on the ground that this request is unduly burdensome.

6. Discovery pursuant to the Uniform Rules of Procedure and by incorporation of reference the Florida Rules of Civil Procedure is not appropriate in a Commission investigation. FPL further objects on the ground that this request is unduly burdensome. FPL further objects to this request as being vague; does FIPUG intend to include tariffs as wholesale contracts? If so, then such tariffs are on file with the Federal Energy Regulatory Commission.

Respectfully submitted,

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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 FIPUG's First Request for Production of Documents to Florida Power & Light Company was furnished by Hand Delivery\* or U.S. Mail this 20th day of September, 1999 to the following:

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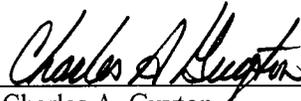
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