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October 21, 1999

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

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RECORDS AND REPORTING  
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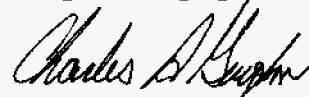
Re: DOCKET NO. 991462-EU

Dear Ms. Bayó:

Enclosed for filing on behalf of Florida Power & Light Company ("FPL") in Docket No. 991462-EU are the original and fifteen (15) copies of Motion to Join Florida Power Corporation's Emergency Petition for Waiver of Rule 25-22.080 and Request for Stay.

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

Very truly yours,



Charles A. Guyton

Enclosure

AFA \_\_\_\_\_  
APP \_\_\_\_\_  
CAF \_\_\_\_\_  
CMU \_\_\_\_\_  
CTR \_\_\_\_\_  
EAG 3 1998/32476-1  
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DOCUMENT NUMBER-DATE

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Miami West Palm Beach Tallahassee Key West London Caracas São Paulo Rio de Janeiro

FPSC-RECORDS/REPORTING

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for Determination )  
of Need for Electric Power Plant ) Docket No. 991462-EU  
in Okeechobee County by Okeechobee ) Filed: October 21, 1999  
Generating Company, L.L.C. )  
\_\_\_\_\_ )

FLORIDA POWER & LIGHT COMPANY'S  
MOTION TO JOIN FLORIDA POWER CORPORATION'S  
EMERGENCY PETITION FOR WAIVER OF RULE  
25-22.080 AND REQUEST FOR STAY

Pursuant to Florida Administrative Code Rule 28-106.204, Florida Power & Light Company ("FPL") files this motion to join Florida Power Corporation's Emergency Petition For Waiver of Rule 25-22.080 and Request For Stay. As grounds, FPL states:

1. The procedural schedule established for this case does not allow sufficient time for FPL to prepare a case. Moreover, and adherence to the time line in Rule 25-22.080 will deny FPL a meaningful opportunity to prepare for and try this case. Thus, it would be fundamentally unfair to proceed consistent with Rule 25-22.080 and the Procedural schedule set forth in Order No. PSC-99-2002-PCO-EU.

2. The need determination petition in this case was filed without supporting testimony on September 24, 1999. If the petitioner desired to have the Commission go to hearing in less than 90 days, it should have filed its supporting testimony with the petition, allowing a semblance of due process to potential

adversary parties and sufficient time for the Commission to meaningfully review the matter. That has been the practice in prior potentially adversarial need cases filed by utilities.

3. Instead, the petitioner did not file supporting testimony, and the Order Establishing Procedure issued by the Commission gave the petitioner a full 31 days after the filing of its petition to file direct testimony, leaving the other parties and the Commission only two-thirds of the time permitted under Rule 25-22.080 to review the testimony and conduct related discovery before going to hearing. Then, the Commission shortened that already condensed time from 59 days to 42 days by scheduling the hearing to begin on December 6, 1999. A need hearing scheduled 42 days from the filing of direct testimony is not a fair or meaningful schedule for the parties. It does not allow adequate time to conduct discovery or prepare testimony.

4. After asking Petitioner whether it would agree not to oppose intervention herein by FPL, which agreement was not given, FPL petitioned to intervene on October 7, 1999. The Petitioner has responded. No ruling has yet been made on that petition to intervene and the petition to intervene and the response are largely restatements of the petition to intervene and response which resulted in the granting of intervention in an earlier analogous circumstance. The absence of a ruling on intervention forecloses FPL from beginning discovery.

5. Adhering to the time line in Rule 25-22.080 is not only unfair under the circumstances but also totally unnecessary given the representations of the petitioner. The petitioner has not initiated a site certification proceeding, which is the assumption underlying the time line in Rule 25-22.080. The petitioner does not plan to initiate such a site certification proceeding until June 2000. Under those circumstances, adhering to the time line in Rule 25-22.080 would serve no purpose other than to deny due process to FPL, FPC and any other party that may intervene adverse to the petitioner.

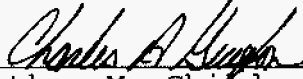
6. FPC's petition for an emergency waiver of Rule 25-22.080 should be granted. They have demonstrated that both of the statutory standards for a waiver have been met, and upon meeting the requirements, waiver is not discretionary.

7. FPC's request for a stay should also be granted. It makes no sense to reargue before the Commission the arguments pending before the Supreme Court of Florida. Oral argument in the Duke case has been scheduled for January 4, 2000, leaving time afterward for the handling of this determination of need, if necessary.

WHEREFORE, FPL respectfully moves to join in Florida Power Corporation's Emergency petition For Waiver of Rule 25-22.080 and Request For Stay.

Respectfully submitted,

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Light Company

By:   
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**CERTIFICATE OF SERVICE**  
**DOCKET NO. 991462-EU**

I **HEREBY CERTIFY** that a true and correct copy of Florida Power & Light Company's Motion to Join Florida Power Corporation's Emergency Petition for Waiver of Rule 25-22.080 and Request for Stay has been furnished by Hand Delivery\* this 21st day of October, 1999 to the following:

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By: *Charles A. Childs*  
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