

ORIGINAL

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Petition for Determination of)
Need for an Electrical Power Plant in) DOCKET NO. 99-1462-EU
Okeechobee County by Okeechobee)
Generating Company, L.L.C.) FILED: November 12, 1999

OKEECHOBEE GENERATING COMPANY'S OBJECTIONS
TO FLORIDA POWER & LIGHT COMPANY'S SECOND SET OF
INTERROGATORIES (NOS. 62-71)

Okeechobee Generating Company, L.L.C. ("OGC"), pursuant to the
Commission's Order Establishing Procedure, as revised, and the Order
Establishing Expedited Discovery Schedule, hereby respectfully
submits its objections to Florida Power & Light Company's ("FPL")
Second Set of Interrogatories (Nos. 62-71), which were served on OGC
on November 2, 1999.

GENERAL OBJECTIONS

OGC objects to FPL's Second Set of Interrogatories on the
grounds set forth in paragraphs A-E below. Each of OGC's responses
will be subject to and qualified by these general objections.

A. OGC objects to FPL's request that the answers to these
interrogatories be provided on or before November 12, 1999.
Pursuant to the Commission's Order Establishing Expedited Discovery,
issued November 8, 1999, OGC's responses to FPL's Second Set of
Interrogatories are due on November 16, 1999.

B. OGC objects to any interrogatory that calls for the
creation of information as opposed to the reporting of presently
existing information as an improper expansion of OGC's obligations
under the law FPL invokes.

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FPSC-RECORDS/REPORTING

C. OGC objects to any interrogatory that calls for information protected by the attorney-client privilege, the work product doctrine, the accountant-client privilege, the trade secret privilege, or any other applicable privilege or protection afforded by law, whether such privilege or protection appears at the time response is first made to these interrogatories or is later determined to be applicable for any reason. OGC in no way intends to waive any such privilege or protection.

D. OGC objects to any interrogatory that calls for confidential proprietary business information and/or the compilation of information that is considered confidential proprietary business information.

E. As noted in OGC's specific objections stated below, OGC objects to each interrogatory propounded by FPL in its Second Set of Interrogatories on the grounds that those interrogatories are beyond the scope of discovery permitted of testifying experts by the Florida Rules of Civil Procedure ("F.C.R.P."). Rule 1.280(b)(4)(A), F.R.C.P., which is made specifically applicable to this proceeding by Uniform Rule 28-106.206, Florida Administrative Code, provides as follows:

(4) Trial Preparation: Experts. Discovery of facts known and opinions held by experts, otherwise discoverable under the provisions of subdivision (b) (1) of this rule and acquired or developed in anticipation of litigation or for trial, may be obtained only as follows:

(A) (i) By interrogatories a party may require any other party to identify each person whom the other

party expects to call as an expert witness at trial and to state the subject matter on which the expert is expected to testify, and to state the substance of the facts and opinions to which the expert is expected to testify and a summary of the grounds for each opinion.

(ii) Any person disclosed by interrogatories or otherwise as a person expected to be called as an expert witness at trial may be deposed in accordance with rule 1.390 without motion or order of court.

(iii) A party may obtain the following discovery regarding any person disclosed by interrogatories or otherwise as a person expected to be called as an expert witness at trial:

1. The scope of employment in the pending case and the compensation for such service.
2. The expert's general litigation experience, including the percentage of work performed for plaintiffs and defendants.
3. The identity of other cases, within a reasonable time period, in which the expert has testified by deposition or at trial.
4. An approximation of the portion of the expert's involvement as an expert witness, which may be based on the number of hours, percentage of hours, or percentage of earned income derived from serving as an expert witness; however, the expert shall not be required to disclose his or her earnings as an expert witness or income derived from other services.

An expert may be required to produce financial and business records only under the most unusual or compelling circumstances and may not be compelled to compile or produce nonexistent documents. Upon motion, the court may order further discovery by other means, subject to such restrictions as to scope and other provisions pursuant to subdivision (b)(4)(C) of this rule concerning fees and expenses as the court may deem appropriate.

FPL has not asked interrogatories that are permitted under Rule

1.280(b), F.R.C.P. Rather, FPL has propounded numerous interrogatories that can only be answered by OGC's testifying experts and as such are clearly beyond the scope of discovery by interrogatories permitted under the applicable rules. OGC will, of course, produce its testifying experts for deposition as provided for in Rule 1.280(b)(4)(A)(ii), F.R.C.P.

SPECIFIC OBJECTIONS

OGC makes the following specific objections to FPL's Second Set of Interrogatories. OGC's specific objections are numbered to correspond with the number of FPL's interrogatories.

62. OGC objects to this interrogatory on the grounds that it is beyond the scope of discovery permitted of testifying experts by the Florida Rules of Civil Procedure.

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70. OGC objects to this interrogatory on the grounds that it is beyond the scope of discovery permitted of testifying experts by the Florida Rules of Civil Procedure.

71. OGC objects to this interrogatory on the grounds that it is beyond the scope of discovery permitted of testifying experts by the Florida Rules of Civil Procedure. Without waiving its objections, OGC will attempt to respond to this interrogatory.

Respectfully submitted this 12th day of November, 1999.



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CERTIFICATE OF SERVICE
DOCKET NO. 991462-EU

I HEREBY CERTIFY that a true and correct copy of the foregoing has been served by hand delivery (*), facsimile transmission (**), or by United States Mail, postage prepaid, on the following individuals this 12th day of November, 1999.

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