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**ORIGINAL**

October 25, 2000

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## VIA HAND DELIVERY

Blanca S. Bayo  
Director, Division of Records & Reporting  
Florida Public Service Commission  
Capital Circle Office Center  
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Tallahassee, Florida 32399-0850

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RECORDS AND REPORTING

Re: Petition for Determination of Need for an Electrical Power Plant in St. Lucie County by Duke Energy St. Lucie, L.L.C., Docket No. 000612-EU

Dear Ms. Bayo:

Enclosed for filing are the original and fifteen (15) copies of the Motion to Abate by Duke Energy St. Lucie, L.L.C. ("DESL"). For our records, please acknowledge your receipt of this filing on the enclosed copy of this letter. Thank you for your consideration.

Sincerely,

HOLLAND & KNIGHT LLP

Karen D. Walker

KDW:kjg  
Enclosure

cc: Marlene Stern  
Tom Ballinger

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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

ORIGINAL

In Re: Petition for determination of need ) Docket No. 000612-EU
for an electrical power plant in St. Lucie )
County by Duke Energy St. Lucie, L.L.C. ) Filed: October 25, 2000

MOTION TO ABATE

Duke Energy St. Lucie, L.L.C. ("DESL"), by and through undersigned counsel, pursuant to Rule 28-106.204, Florida Administrative Code, hereby moves the Florida Public Service Commission (the "Commission") to continue to hold this docket in abeyance until the conclusion of the 2002 Regular Session of the Florida Legislature or such earlier time as the Florida Legislative may act to address the issue of whether a need determination is available for wholesale merchant power plants in Florida. In support of this motion, DESL states:

1. On May 22, 2000, DESL filed its Petition for Determination of Need for Electrical Power Plant ("Petition") with the Commission initiating this docket. The Petition seeks an affirmative determination of need for the Duke Energy St. Lucie Generating Project (the "Project"), a proposed 608 MW (nominal) natural gas-fired, combined cycle power plant with duct firing capability to be located in St. Lucie County, Florida.

2. On July 6, 2000, the Commission issued Order No. PSC-00-1221-PCO-EU recognizing that a determination of need was not available for the Project pursuant to the Florida Supreme Court's decision in Tampa Electric Co. v. Garcia, Case Nos. SC-95444, SC-95445, SC-95446, but holding

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the Petition in abeyance pending the disposition of petitions for rehearing pending before the Court at that time.

3. On September 28, 2000, the Court issued a Revised Opinion in Tampa Electric Co. v. Garcia denying the petitions for rehearing.

Notwithstanding the Revised Opinion, this docket should continue to be held in abeyance because of the very strong likelihood that the Florida Legislature will act in the near future to address the issue of whether a need determination should be available for a wholesale merchant power plant, such as the Project.


4. On May 3, 2000, Governor Jeb Bush issued Executive Order No. 00-127 (the "Executive Order") creating the Energy 2020 Study Commission for the purpose of determining "what Florida's electric energy needs will be over the next 20 years and how to best supply those needs in an efficient, affordable, and reliable manner that will ensure adequate electric reserves." Executive Order at ¶ 4. The Executive Order directs the Energy 2020 Study Commission to "recommend appropriate electric energy policies for this state, including statutory changes, if necessary." Executive Order at ¶ 4. Accordingly, on or before December 1, 2001, the Energy 2020 Study Commission is required to provide to the President of the Senate, the Speaker of the House of Representatives, and the Governor, a written report containing its legislative and other recommendations.

5. The Energy 2020 Study Commission began meeting on September 13, 2000, and met again on October 18, 2000. During these meetings, the Energy 2020 Study Commission developed a work plan which identifies major topic areas to be addressed. One such major topic area is the wholesale electric market. The work plan indicates that the Energy 2020 Study Commission will consider the issue of wholesale market restructuring separately from retail market restructuring. Indeed, the work plan notes that the Energy 2020 Study Commission will endeavor to expedite its recommendation with respect to wholesale market restructuring, and that it may issue an interim report regarding wholesale market recommendations as early as January, 2001.

6. Based on the Executive Order and the work of the Energy 2020 Study Commission, it is likely that the Florida Legislature will consider the issue of wholesale market restructuring in 2001 or 2002. This consideration will almost certainly address whether a need determination from the Commission is available for a wholesale merchant power plant. If the Florida Legislature acts to amend the Florida Statutes so that a wholesale merchant power plant, such as DESL's Project, may obtain a need determination from the Commission notwithstanding the Court's decision in Tampa Electric Co. v. Garcia, DESL would be required to refile its Petition unless this docket is held in abeyance. Accordingly, DESL respectfully requests that the Commission continue to hold this docket in abeyance until the conclusion of

the 2002 Regular Session of the Florida Legislature, or such earlier time as the Florida Legislature addresses the issue of whether a need determination is available for a wholesale merchant power plant.

Respectfully submitted this 25th day of October, 2000.

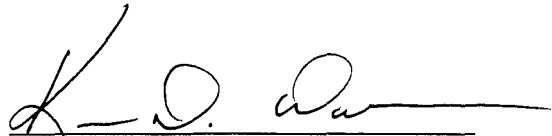


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**Attorneys for Duke Energy  
St. Lucie, L.L.C.**

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the foregoing Motion to Abate was furnished by hand delivery to Marlene Stern and Tom Ballinger, Florida Public Service Commission, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850 this 25th day of October, 2000.



Karen D. Walker