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DIVISION OF LEGAL SERVICES
NOREEN S. DAVIS
DIRECTOR
(850) 413-6199

Public Service Commission

November 2, 2000

Mr. Sarino R. Costanzo
10659 N. E. Quaybridge
Miami, FL 33138

Re: Docket No. 000982-EI - Petition by Florida Power & Light Company for Approval of Conditional Settlement Agreement which Terminates Standard Offer Contracts Originally Entered into Between FPL and Okeelanta Corporation and FPL and Osceola Farms, Co.

Dear Mr. Costanzo:

Your letter, dated October 13, 2000, concerning Florida Power & Light Company's (FPL) request for approval of a settlement agreement to resolve contract litigation with two cogeneration facilities has been forwarded to me by Commissioner J. Terry Deason for response, because Chapter 350, Florida Statutes, precludes a Commissioner from commenting on the merits of a proceeding pending before the Commission.

In your letter, you express opposition to FPL's request in the above-referenced docket for approval to recover the costs of its settlement agreement with Okeelanta Corporation and Osceola Farms, Co., from its ratepayers. At its October 17, 2000, Agenda Conference, the Commission voted to grant FPL's request. The Commission's vote is memorialized in Order No. PSC-00-1913-PAA-EI, issued October 19, 2000. A copy of this Order is enclosed for your review.

In 1990, the Commission adopted rules requiring public utilities, such as FPL, to make standard offer contracts available to certain types of cogeneration facilities. As the enclosed Order indicates, in August 1991, the Commission approved a standard offer contract for FPL for up to 125 megawatts of capacity. In September 1991, Okeelanta and Osceola submitted signed standard offer contracts to FPL. The Commission found that these contracts were cost-effective and therefore approved recovery of the costs of electric power under these contracts from FPL's ratepayers. Since that time, however, the costs of purchasing power in the wholesale market and producing power with new power plants have decreased, thus making these contracts no longer cost-effective.

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In this case, the Commission found that the proposed settlement agreement should be approved because FPL's ratepayers would pay less in the long run for the cost of the settlement plus the cost of replacing the electric power that would have been purchased under the two cogeneration contracts than they would pay for the cost of continuing to purchase power under the two contracts. The projected savings to FPL's ratepayers are indicated on page 3 of the Order. To mitigate the impact on customer rates, the Commission approved recovery of the settlement amount through FPL's rates over a five-year period beginning in 2002.

The enclosed Order was issued as proposed agency action. As stated on pages 6 and 7 of the Order, the Order will become final and effective if no person whose substantial interests are affected by the actions proposed in the Order files a petition for a formal proceeding. A formal administrative proceeding is very similar to litigation in court. Any person requesting a formal proceeding is responsible for preparing and putting on its case. As noted on page 7 of the Order, any petition for formal proceeding must be received by the Commission's Division of Records and Reporting by the close of business on November 9, 2000. (The Commission currently does not accept electronic filings.) Rule 28-106.201, Florida Administrative Code, sets forth the requirements for such a petition.

If you would like to discuss this matter further, please contact me by telephone at (850) 413-6193.

Sincerely,



Wm. Cochran Keating IV
Staff Counsel

Enclosures
cc: **Division of Records and Reporting**
Division of Safety and Electric Reliability (Haff, Bohrmann)
Bill Berg

COSTANZO.WCK