

ORIGINAL

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Review of Florida Power & Light Company's proposed merger with Entergy Corporation, the formation of a Florida transmission company ("Florida transco"), and their effect on FPL's retail rates

Docket No.: 001148-EI

AMENDED PETITION TO INTERVENE

Dynegy Inc. ("Dynegy"), and Dynegy Midstream Services, Limited Partnership, its wholly owned subsidiary ("Dynegy Midstream"), pursuant to the Florida Administrative Code Rules 25-22.039 and 28-106.205, hereby file their Amended Petition to Intervene in this docket. As grounds therefore, Dynegy and Dynegy Midstream state:

- 1. The name and address of the Petitioners is:

Dynegy Inc. and Dynegy Midstream Services, Limited Partnership
c/o Thomas A. Cloud, Esquire
Gray, Harris & Robinson, P.A.
301 East Pine Street, Suite 1400
P.O. Box 3068
Orlando, Florida 32802-3068
(407) 843-8880 Phone
(407) 244-5690 Facsimile

- 2. All pleadings, orders and correspondence should be directed to Petitioner's

representatives as follows:

APP _____
CAF _____
CMP _____
COM _____
CTR _____
ECR _____
LEG I
OPC _____
PAI _____
RGO _____
SEC I
SER _____
OTH _____

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and

David Cruthirds, Esquire
Vice President and Regulatory Counsel
Dynergy Inc.
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3. In this docket, the Florida Public Service Commission will investigate the earnings of Florida Power & Light Company (“FPL”), including the effect of the merger of FPL with Entergy Corporation (“Entergy”).

4. Dynergy is a corporation organized and existing under the laws of the State of Illinois, with corporate headquarters located in Houston, Texas. Dynergy is one of the country’s leading marketers of energy products and services, occupying a significant position in power generation and marketing. Dynergy markets power in the Florida market. Dynergy Midstream is a wholly owned subsidiary of Dynergy and is one of the country’s leading manufacturers and marketers of natural gas liquids and related services. Dynergy Midstream has facilities and operations in Florida, including natural gas liquid terminals in Tampa and at Port Everglades near Fort Lauderdale.

5. Dynergy is a customer of both FPL and Entergy, and purchases electric transmission services from both entities. Such electric transmission services represent one of Dynergy’s largest variable costs.

6. Dynegy is also a competitor of FPL in the wholesale power market in Florida.

7. Dynegy has announced the development of Palmetto Power in Osceola County and another merchant plant in Osceola County. Both of these projects will require the purchase by Dynegy of electric transmission services from FPL.

8. The merger and subsequent market power created by the merger will:

- (a) increase the ability of the merged entity to discriminate against customers, like Dynegy;
- (b) could result in increased prices, and;
- (c) will reduce or eliminate the availability of electrical transmission services to such customers.

9. Furthermore, as part of the relief granted in this case, the Commission could determine to set retail rates for FPL in such a manner or at such levels as would lead to changes in wholesale and/or transmission rates charged by FPL to Dynegy.

10. Dynegy's ability to effectively compete will be directly affected by the adequacy, availability, reliability and cost of electric transmission services provided by FPL, as well as the electricity rate which could be established if the merger is approved. Therefore, Dynegy will be directly and substantially affected by any action the Commission takes in this docket.

11. Dynege Midstream is a retail customer of FPL and purchases retail electric service from FPL at its facility at Port Everglades. As such, electric service represents one of Dynege Midstream's largest variable costs.

12. Dynege is also a developer of industrial cogeneration facilities. The viability of industrial cogeneration projects depends in large part upon the retail rates charged by an industrial's electric utility. The retail rate in essence becomes the "price to beat" against which the cogen developer must compete. Other things being equal, a cogen developer such as Dynege must be able to build a cogeneration facility that enables the industrial customer to save money on its combined cost of electric power and steam. The cogen developer must be able to deliver power at a cost below the retail rates charged by the utility (in this case FPL) or the industrial will have little reason to pursue self-generation. FPL's industrial rates are relevant subject matter of this proceeding. Dynege's ability to compete for industrial cogeneration projects will be directly affected by the Commission's decision in this case on that issue. This direct impact on Dynege should provides additional justification to grant Dynege's intervention as a party in this case.

13. Disputed issues of material fact include, but are not limited to, the following:

- (a) The effect of the proposed merger on FPL's earnings;
- (b) The effect of the proposed merger on FPL's market power;
- (c) The effect of the proposed merger on competition in Florida's wholesale power market;

- (d) The effect of the proposed merger on the adequacy, availability, reliability, and cost of electric transmission capacity in the Florida market;
- (e) The appropriate allocation of FPL revenues between retail and wholesale customers; and
- (f) The appropriate acquisition adjustment to be made in setting retail rates for FPL retail customers after the merger.

14. Ultimate facts include, but are not limited to, the consideration of the merger's impact in assessing FPL's earnings and market dominance.

15. The applicable statutes and rules, include, but are not limited to:

Chapter 366, Florida Statutes
Fla. Admin. Code Chapter 25
Fla. Admin. Code Rule 28-106.

WHEREFORE, Dynegy and Dynegy Midstream request that the Florida Public Service Commission grant Dynegy and Dynegy Midstream's Petition to Intervene and accord them full party status in this docket.



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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by Federal Express to the following parties of record and interested parties, this 2nd day of February, 2001:

Florida Power & Light Company
William G. Walker, III
9250 West Flagler Street
Miami, Florida 33174

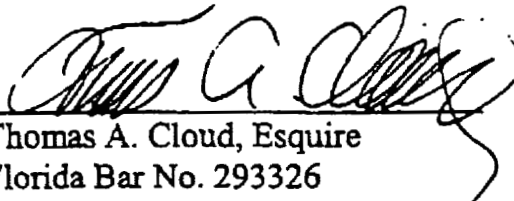
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