

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Complaint of South Florida)
Hospital and Healthcare Association, *et.*) DOCKET NO. 010944-EI
a/. against Florida Power and Light)
Company, request for expeditious relief) Filed: August 28, 2001
and request for interim rate procedures)
with rates subject to bond)
_____)

MOTION TO DISMISS AMENDED PETITION

Florida Power & Light Company ("FPL"), pursuant to Rule 28-106.204, Florida Administrative Code ("FAC"), hereby moves to dismiss the Amended Petition of the South Florida Hospital and Healthcare Association (hereinafter the "Amended Petition") and states:

Petitioner initiated this Docket with a Complaint filed on July 6, 2001, that sought an interim rate order. FPL moved to dismiss the original Petition on July 31, 2001, on the grounds that there was no legal or policy justification to establish a separate "spin off" docket for an interim rate determination, particularly since the Commission had already decided not to enter such an order in Docket No. 001148-E1.

Petitioner responded by filing an Amended Petition on August 8, 2001 which addressed certain procedural points made by FPL, but stated no new or different substantive grounds for the relief requested. On August 23, 2001, the Commission Staff issued a recommendation on both the Amended Petition and a related Motion for Clarification filed by Petitioner in Docket No. 001148-EI. Although FPL had not yet filed a motion to dismiss directed to the Amended Petition, Staff applied FPL's original motion

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STEEL HECTOR & DAVIS LLP

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to dismiss to that pleading.¹ FPL believes this decision to have been correct, as the substance of the Amended Petition does not differ from the original and there was therefore no reason to delay issuance of a staff recommendation.

To prevent any potential waiver of its rights with respect to the Amended Petition, FPL incorporates by reference herein the arguments in its original Motion to Dismiss and based on those arguments respectfully requests that the Amended Petition be dismissed with prejudice. As FPL has raised no new points that would dictate a response from Petitioner, there is no reason to delay consideration of the Staff recommendation, which is presently scheduled for the September 4, 2001, agenda conference.

Respectfully submitted,

Steel Hector & Davis LLP
215 South Monroe Street - Suite 601
Tallahassee, Florida 32301

Attorneys for Florida Power & Light Company

By: 

Matthew M. Childs, P.A.
John T. Butler, P.A.
Charles A. Guyton
Gabriel E. Nieto

¹ The Staff Recommendation expressly states that "staff's analysis is based on SFHHA's amended petition filed August 8, 2001, rather than SFHHA's original pleading filed July 6, 2001, in Docket No. 010944-EI." *Staff Recommendation*, p. 3.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of FPL's Motion to Dismiss was served by Federal Express (*) or facsimile and U.S. Mail this 27th day of August 2001 to the following:

William C. Keating, IV *
Legal Division
Florida Public Service Commission
2540 Shumard Oak Boulevard
Room 370
Tallahassee, FL 32399-0850

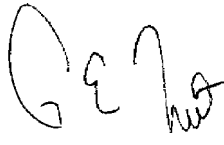
Mark F. Sundback
Kenneth L. Wiseman
Andrews & Kurth, LLP
1701 Pennsylvania Avenue, NW
Suite 300
Washington, DC 20006

George E. Humphrey
Andrews & Kurth, LLP
600 Travis
Suite 4200
Houston, TX 77002-3090

Jack Shreve, Esquire
John Roger Howe, Esquire.
Office of Public Counsel
111 West Madison Street
Room 812
Tallahassee, Florida 32399-1400

John McWhirter
McWhirter, Reeves, et. al.
PO Box 3350
Tampa, FL 33601-3350

Ronald LaFace
Sean Frazier
Greenberg Traurig, PA
101 East College Avenue
Tallahassee, FL 32301

By: 

Gabriel E. Nieto

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