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November 14, 2001

Ms. Blanca S. Bayó, Director  
Division of the Commission Clerk  
and Administrative Services  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, FL 32399-0870

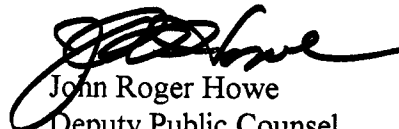
RE: Docket No. 001148-EI

Dear Ms. Bayó:

Enclosed are an original and fifteen copies of a Motion Asking Prehearing Officer to Reject FPL's November 9, 2001, MFR Filing for filing in the above referenced docket.

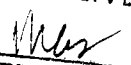
Please indicate receipt of filing by date-stamping the attached copy of this letter and returning it to this office. Thank you for your assistance in this matter.

Sincerely,

  
John Roger Howe  
Deputy Public Counsel

JRH/dsb  
Enclosures

APP \_\_\_\_\_  
CAF \_\_\_\_\_  
CMP \_\_\_\_\_  
COM 5 \_\_\_\_\_  
CTR \_\_\_\_\_  
ECR \_\_\_\_\_  
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SEC 1 \_\_\_\_\_  
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**BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

In re: Review of the retail rates of )  
Florida Power & Light Company )  
\_\_\_\_\_ )

Docket No. 001148-EI  
Filed: November 14, 2001

**MOTION ASKING PREHEARING OFFICER TO  
REJECT FPL'S NOVEMBER 9, 2001, MFR FILING**

The Citizens of the State of Florida, through the Office of Public Counsel, pursuant to Rule 28-106.204, Florida Administrative Code, move the Prehearing Officer, Commissioner Baez, to reject Florida Power & Light Company's MFR filing of November 9, 2001, because it was filed after the date specified in the Order Establishing Procedure, Order No. PSC-01-2111-PCO-EI, issued October 24, 2001, and as grounds therefor, state:

1. The Order Establishing Procedure (at page 6) identified the "Controlling Dates" for processing this docket, specifying among other things the discovery deadline, the MFR filing deadline, and the dates for the company and Intervenors to file testimony. Any party dissatisfied with a provision of the Order was given ten days in which to seek reconsideration pursuant to Rule 25-22.0376, Florida Administrative Code. Section (3) of the rule provides that failure to timely file a motion for reconsideration constitutes a waiver of the right to do so. The MFR filings were to be completed by October 15, 2001, pursuant to the Order. FPL's latest revised MFR's, however, were filed on November 9, 2001, three and one-half weeks after the deadline specified in the Order. FPL has not asked for reconsideration of the MFR filing deadline. (The statement in the November 9th transmittal letter that, at the time of its October 1st and 15th filings, the company was still in the process of quantifying impacts from events of September 11th cannot reasonably be construed as a

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motion for reconsideration under the Commission's rule or as an excuse for not seeking reconsideration of the Order which issued more than two weeks before the November 9th submittal.)

2. The Citizens, through the Office of Public Counsel, on November 5, 2001, asked for reconsideration of the Intervenor's testimony filing date specified in the Order. That motion was predicated upon an understanding that, pursuant to the Order, Intervenor would have to file testimony within two weeks of the company unless reconsideration was requested. If this interpretation is correct, the company should be foreclosed from filing MFR schedules after October 15, 2001. If this interpretation is incorrect, and the company is free to ignore deadlines without express authorization from the Prehearing Officer, then the company should be foreclosed from in the future moving to invalidate any actions taken by Intervenor which have the effect of extending a deadline applicable to them.

WHEREFORE, the Citizens of the State of Florida, through the Office of Public Counsel, move the Prehearing Officer, Commissioner Baez, to reject the MFR filing submitted by Florida Power & Light Company on November 9, 2001.

Respectfully submitted,

JACK SHREVE  
PUBLIC COUNSEL

  
\_\_\_\_\_  
John Roger Howe  
Deputy Public Counsel

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Attorneys for the Citizens  
of the State of Florida

**CERTIFICATE OF SERVICE  
DOCKET NO. 001148-EI**

I HEREBY CERTIFY that a true and correct copy of the foregoing MOTION ASKING PREHEARING OFFICER TO REJECT FPL'S NOVEMBER 9, 2001, MFR FILING has been furnished by U.S. Mail or \*hand-delivery to the following parties on this 14th day of November, 2001:

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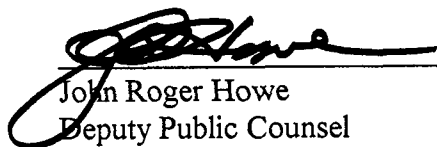
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