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November 14, 2001

## Via Federal Express

Ms. Blanca S. Bayo, Director  
Division of the Commission Clerk  
and Administrative Services  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, FL 32399-0850

**Re: Review of Florida Power & Light Company's proposed merger with Entergy Corporation, the formation of a Florida transmission company ("Florida Transco"), and their effects on retail rates, Docket No. 001148-EI**

Dear Ms. Bayo:

Enclosed for filing are the original and fifteen (15) copies of the Answer of South Florida Hospital and Healthcare Association, to Motion for Reconsideration of Order Establishing Procedure in the above referenced docket. Also enclosed is an extra copy of the filing to be date stamped and returned to us in the enclosed self-addressed envelope.

Please do not hesitate to contact the undersigned if you have any questions regarding the above.

Very truly yours,



Mark F. Sundback  
An Attorney For South Florida Hospital &  
Healthcare Association and the Hospitals

Enclosures

cc: Parties of record

WAS:90734.1

DOCUMENT NUMBER-DATE

14504 NOV 15 01

FPSC-COMMISSION CLERK

**BEFORE THE FLORIDA  
PUBLIC SERVICE COMMISSION**

<b>In re: Review Florida Power &amp; Light</b>	<b>§</b>	
<b>Company's proposed merger with Entergy</b>	<b>§</b>	
<b>Corporation, the formation of a Florida</b>	<b>§</b>	<b>Docket No.: 001148-EI</b>
<b>Transmission company ("Florida</b>	<b>§</b>	<b>Date Filed: November 15, 2001</b>
<b>transco"), And their effect on FPL retail</b>	<b>§</b>	
<b>rates</b>	<b>§</b>	

**ANSWER OF SOUTH FLORIDA HOSPITAL AND HEALTHCARE ASSOCIATION  
TO MOTION FOR RECONSIDERATION OF ORDER ESTABLISHING  
PROCEDURE**

Pursuant to Rules 25-22.060, 28-106.103 and 28-106.303 of the Florida Administrative Code, the South Florida Hospital and Healthcare Association and supporting members (collectively, the "Hospitals") hereby answer the "Motion For Reconsideration of Order Establishing Procedure" ("Motion") filed in the captioned docket by the Office of Public Counsel. The Hospitals generally support the relief requested in the Motion, with one minor modification, for the reasons stated below.

1. The present procedural schedule in the captioned matter affords intervenors only two weeks from the date when FPL testimony is to be filed to the date when intervenor testimony is due. Staff testimony is due only two weeks thereafter.

2. The Hospitals have initiated discovery upon FPL regarding second phase (i.e., rate case) issues. In their initial round of discovery, the Hospitals requested that responses be provided within two weeks. FPL objected, and insisted upon a thirty day response time. Of course, FPL's refusal to consider a response interval of less than thirty days means that

(a) there is no way that intervenors could possibly receive responses to requests they propound following receipt of FPL's January 28, 2002 testimony before the intervenors' February 11, 2002 testimony is due;

(b) there is no way that Staff could possibly receive responses to requests propounded by Staff following receipt of FPL's January 28, 2002 testimony before Staff's February 25, 2002 testimony is due; and

(c) there is no way that cross-examination for witnesses appearing, for instance, at the hearing on April 10, 2002, could in any way reflect responses to discovery requests propounded in the wake of rebuttal testimony filed March 11, 2002.

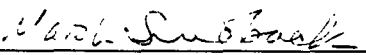
Other procedural anomalies also would flow from these circumstances. Therefore, the present thirty day response interval demanded by FPL is inconsistent with the procedural schedule adopted herein.

3. Because this is the first full FPL rate case with testimony from the Company (presumably) justifying its rates in 18 years, it is important that participants have an adequate opportunity to understand and test any bases asserted by the utility for maintaining the status quo. One approach that will afford participants a fair opportunity to understand FPL's position would be to move FPL's filing deadline to a date that permits meaningful review, analysis and discovery of FPL's direct case. The Office of Public Counsel has suggested a 60 day interval between the filing of FPL testimony and the date for intervenor testimony. However, because of FPL's insistence on a thirty day turn-around there is no opportunity for two rounds of discovery on FPL's testimony under the Office of Public Counsel proposal. Thus, if the Commission desires to maintain the hearing date on or about mid-April, 2002, it would ultimately set a date of approximately January 1, 2002 for FPL's direct case; thereafter (using the 30-day response interval used by FPL), intervenors would have the opportunity to conduct two rounds of discovery before filing testimony. Two rounds of discovery are appropriate; with only one round, the utility has a strong incentive to draft its answer to a discovery request very narrowly, in the hopes of avoiding the production of damaging information and constraining the requester's opportunity to pursue a full and fair response.

4. The Office of Public Counsel requests at least a 60-day interval between the filing of FPL testimony and the filing of intervenors' testimony. However, if the intervenors are to be afforded a realistic opportunity to probe FPL's claims, 60 days will not be sufficient given FPL's insistence on a full 60-day response interval. Thus, the Hospitals respectfully suggest that a 75-day interval be granted between the date for filing FPL testimony and the date for filing intervenor testimony so that two rounds of discovery may be conducted between the filing of FPL's testimony and the date when intervenors' testimony is due.

5. Consequently, for the foregoing reasons, as well as the bases described in the Motion, the Hospitals respectfully request that the relief requested by the Motion be granted, as modified herein.

Respectfully submitted,

  
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ATTORNEYS FOR THE HOSPITALS

November 15, 2001

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

I HERBY CERTIFY that a true and correct copy of the foregoing has been furnished by

U.S. Mail to the following parties, this 14<sup>th</sup> day of November 2001.


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**INTERESTED PARTIES:**

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<p>Daniel Doorakian  Moyle, Flanigan, Katz, Raymond &amp; Sheehan,  P.A.  The Perkins House  118 North Gadsden Street  Tallahassee, Florida 32301</p>	

  
Mark F. Sundback