

STEEL
HECTOR
& DAVIS

Steel Hector & Davis LLP
200 South Biscayne Boulevard
Miami, Florida 33131-2398
305.577.7000
305.577.7001 Fax
www.steelhector.com

Gabriel E. Nieto
305.577.7083
gnieto@steelhector.com

November 15, 2001

VIA FEDERAL EXPRESS

ORIGINAL

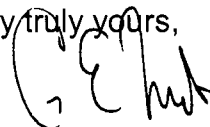
Ms. Blanca S. Bayó, Director
Division of Records and Reporting
Florida Public Service Commission
4075 Esplanade Way, Room 110
Tallahassee, FL 32399-0850

Re: DOCKET NO. 001148-EI

Dear Ms. Bayó:

Enclosed for filing please find the original and fifteen (15) copies of Florida Power & Light Company's Response to Motion for Reconsideration of Order Establishing Procedure. An electronic copy is provided on a diskette.

Very truly yours,



Gabriel E. Nieto

GEN/ps
Enclosure

APP _____
CAF _____
CMP _____
COM 5 _____
CTR _____
ECR _____
EG _____
GPC _____
IAI _____
LGO _____
LEC 1 _____
LER _____
LTH _____

DOCUMENT NUMBER - DATE

14547 NOV 16 01

FPSC-COMMISSION CLERK

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Review of the retail rates of)
Florida Power & Light)
Company.)
_____)

Docket No. 001148-EI
Dated: November 15, 2001

**FLORIDA POWER & LIGHT COMPANY'S
RESPONSE TO MOTION FOR RECONSIDERATION
OF ORDER ESTABLISHING PROCEDURE**

Florida Power & Light Company (FPL) responds as follows to the Office of Public Counsel's (OPC's) Motion for Reconsideration of the Order Establishing Procedure in this docket, Order No. PSC-01-2111-PCO-EI:

OPC's Motion seeks reconsideration of certain aspects of the testimony filing schedule in the Order Establishing Procedure. Specifically, OPC complains about the two-week time period between the deadline for FPL's prefiled testimony and the deadline for intervenor testimony, claiming that this is not enough time for it to respond to FPL's testimony.

OPC argues that FPL's initial testimony will reveal information that is known only to FPL, and to which OPC must respond. However, this argument fails to recognize that voluminous information detailing FPL's operations and cost structure has already been submitted by FPL in the form of MFRs, and it is essentially this information to which intervenors will be responding. Indeed, the principal purpose of FPL's direct testimony will be to summarize results reflected in the MFRs and respond to specific issues about them raised by the intervenors and included in the prehearing list of issues.

Based on the present schedule the intervenors will have four months from the time the last MFRs were submitted (and five months from the first MFR filing) to review the data

DOCUMENT NUMBER-DATE

14547 NOV 16 2001

FPSC-COMMISSION CLERK

submitted and develop their testimony. This is more than sufficient. There was no error in setting the schedule.

In any case, OPC falls far short of the established standard for seeking reconsideration, which is appropriate only when the party “identifies some point of fact or law that was overlooked or not considered. . .” *See In Re: Petitioner for Determination of Need for the Osprey Energy Center*, 01 FPSC 4:329. There is no assertion that the Commission failed to consider anything at all, and therefore OPC’s motion is not well-founded. Mere disagreement with the order by OPC is not enough to justify reconsideration.

FPL does not generally object to the intervenors being granted a small amount of additional time to file their testimony, so long as FPL is given commensurate time following issue identification in which to develop and file its direct testimony and, following the filing of intervenor and staff testimony, in which to develop and file its rebuttal testimony.¹ However, the present case schedule simply cannot accommodate the lengthy extension requested by OPC. FPL suggests that the intervenors be given an additional ten days (until February 20), that Staff be given until March 4 to file its testimony, and that rebuttal testimony be due on March 18. This would alleviate some of OPC’s concern while not unfairly distorting and compressing the schedule as to other parties.

WHEREFORE, FPL requests that, OPC’s Motion either (i) be denied or (ii) be granted only to the extent that the intervenors be given until February 20 to file their testimony, Staff be given until March 4 to file its testimony, prehearing statements be due March 7 and rebuttal testimony be due on March 18.

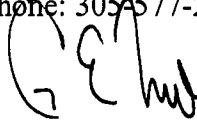
¹ Unlike the intervenors, who have the benefit of MFRs, FPL has no insight, outside of the formal discovery process, into the information being developed by its opponents.

Respectfully submitted,

R. Wade Litchfield, Esq.
Attorney
Florida Power & Light Company
700 Universe Boulevard
Juno Beach, Florida 33408-0420
Telephone: 561-691-7101

Steel Hector & Davis LLP
Attorneys for Florida Power & Light Company
200 South Biscayne Boulevard
Suite 4000
Miami, Florida 33131-2398
Telephone: 305-577-2939

By: _____



John T. Butler, P.A.
Fla. Bar No. 283479
Gabriel E. Nieto
Florida Bar No. 147559

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by United States Mail this 15th day of November, 2001, to the following:

Robert V. Elias, Esq.
Legal Division
Florida Public Service Commission
2540 Shumard Oak Boulevard
Room 370
Tallahassee, FL 32399-0850

Florida Industrial Power Users Group
c/o John McWhirter, Jr., Esq.
McWhirter Reeves
400 North Tampa Street, Suite 2450
Tampa, FL 33601-3350

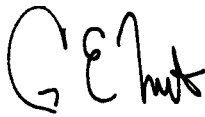
Thomas A. Cloud, Esq.
Gray, Harris & Robinson, P.A.
301 East Pine Street, Suite 1400
Orlando, Florida 32801

J. Roger Howe, Esq.
Office of Public Counsel
c/o Florida Legislature
111 W. Madison Street
Room No. 812
Tallahassee, Florida 32399-1400

Michael B. Twomey, Esq.
Post Office Box 5256
Tallahassee, FL 32314-5256

Andrews & Kurth Law Firm
Mark Sundback/Kenneth Wiseman
1701 Pennsylvania Ave., NW, Suite
300 Washington, DC 20006

Joseph A. McGlothlin, Esq.
Vicki Gordon Kaufman, Esq.
McWhirter Reeves
117 South Gadsden
Tallahassee, Florida 32301

By: 

Gabriel E. Nieto