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November 27, 2001

VIA FEDERAL EXPRESS

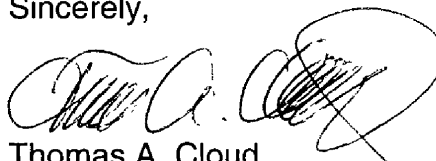
Blanca S. Bayó, Director
Division of Records and Reporting
2540 Shumard Oak Blvd.
Tallahassee, Florida 32399-0870

Re: Docket No.: 001148-EI
Publix Super Market Inc., Response to Motion For Reconsideration of
Order Establishing Procedure

Dear Ms. Bayó:

Per the request of the Division of Commission Clerk and Administrative Services, I am sending the original hard copy and fifteen (15) copies of the Publix Super Markets Inc., Response to Motion For Reconsideration of Order Establishing Procedure which was filed on November 12, 2001 electronically. All parties of record and interested parties on the service list were provided hard copies on the filing date of November 12, 2001 by U.S. Mail in accordance with Commission rules. A copy of this filing has also been provided on a 1.44MB floppy disc in Word Perfect 8.

Sincerely,



Thomas A. Cloud

GRAY, HARRIS & ROBINSON, P.A.

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cc: All individuals on docketing service list

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14962 NOV 28 2001

TAMPA
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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Review of the Retail Rates of FPL

DOCKET NO. 001148-EI
Filed: November 12, 2001

**PUBLIX SUPER MARKETS INC. RESPONSE TO MOTION FOR
RECONSIDERATION OF ORDER ESTABLISHING PROCEDURE**

Publix Super Markets, Inc. ("Publix"), by and through its undersigned counsel, pursuant to Fla. Admin. Code Rule 25-22.0376 (2), hereby files its response to the Office of Public Counsel's Motion for Reconsideration of Order Establishing Procedure, dated November 5, 2001, (the "Order") and states as follows:

1. On November 5, 2001, the Office of Public Counsel ("OPC") filed with the Florida Public Service Commission (the "Commission") a Motion for Reconsideration of Order Establishing Procedure (the "Motion"). In the Motion, OPC requested that the Commission reconsider the dates by which intervenors these proceedings must file their direct testimony and rebuttal testimony in response to that filed by Florida Power & Light ("FPL").

2. Publix fully supports the Motion. As stated in the Motion, the Order clearly prejudices intervenors in this docket by only allowing the two week period between January 28, 2002 and February 11, 2002 in which to put together direct and rebuttal testimony in response to the direct testimony filed by FPL. This is in stark contrast to the three and one-half months given FPL to file its direct testimony, and in contrast to the sequencing of other similar rate cases including the FPC rate docket. This inequitable scheduling burden on the intervenors offends the underlying notion of fairness that must govern administrative bodies in conducting administrative hearings and deprives intervenors of their procedural

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FPSC-COMMISSION CLERK

due process rights. The conduct of an administrative board towards those with whom it deals should be so fair that there is no ground to invite suspicion. Fairness to the individual is the *sine qua non* of all legal procedure. York v. State, 10 So. 2d 813 (Fla. 1943).

3. While the concepts of due process and administrative proceeding are less stringent than in judicial proceedings, they nonetheless apply. Miami-Dade County v. Reyes, 772 So. 2d 24, 29 (Fla. 3rd DCA 2000) (citing A.J. v. State, Dep't. of HRS, 630 So. 2d. 1187, 1189 (Fla. 2d DCA 1994)). Further, the opportunity to be heard in an administrative proceeding must be meaningful. Id. at 29; Rucker v. City of Ocala, 687 So. 2d 836 (Fla.1st DCA 1986) (In order to qualify under due process standards, the opportunity to be heard must be meaningful, full and fair, and not merely colorable or illusive); Federal Communications Commission v. Pottsville Broadcasting Co., 309 US 134 (1940) (In the administrative context, due process requires that interested parties be given a reasonable opportunity to know the claims of adverse parties and the opportunity to meet them). It is therefore incumbent upon the Commission to protect the due process rights of the intervenors in this proceeding by adjusting the Order to allow intervenors a fair opportunity to understand and rebut the direct testimony of FPL.

Respectfully submitted,



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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by US Mail to the following parties of record and interested parties, this 12th day of November, 2001:

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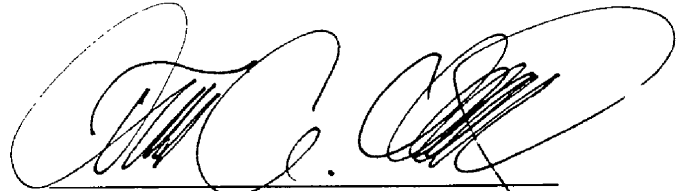
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