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January 22, 2002

VIA FEDERAL EXPRESS

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 Objections to and Requests for Clarification of the Commission Staff's Eighth Set of Interrogatories and Request for Production in the above-referenced dockets. An electronic copy is provided on a diskette.

Very truly yours,



William K. Hill, P.A. *WKS*

WKH:jsh
Enclosure

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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: January 22, 2002

**FLORIDA POWER & LIGHT COMPANY'S
OBJECTIONS TO AND REQUEST FOR
CLARIFICATION OF THE COMMISSION STAFF'S EIGHTH
SET OF INTERROGATORIES AND REQUEST FOR PRODUCTION**

Pursuant to Florida Administrative Code Rule 28-106.206, Florida Rule of Civil Procedure 1.340 and Order No. PSC-01-2111-PCO-EI, Florida Power & Light Company ("FPL") submits the following requests for clarification of and objections to the Commission Staff's Eighth Set of Interrogatories to Florida Power & Light Company (Nos. 326-339) and Eighth Request of Production of Documents (Nos. 47-49).

I. Preliminary Nature of These Objections

The objections stated herein are preliminary in nature and are made at this time consistent with the requirements of Order No. PSC-01-2111-PCO-EI that objections be served within ten days of receipt of discovery requests. Should additional grounds for objection be discovered as FPL develops its response, FPL reserves the right to supplement or modify its objections up to the time it serves its responses. Should FPL determine that a protective order is necessary regarding any of the information requested of FPL, FPL reserves the right to file a motion with the Commission seeking such an order.

II. General Objections.

FPL objects to each and every Interrogatory and Request that calls for information protected by the attorney-client privilege, the work product doctrine, the accountant-client privilege, the trade secret privilege, or any other applicable privilege or protection afforded by

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FPSC-COMMISSION CLERK

privilege, the trade secret privilege, or any other applicable privilege or protection afforded by law, whether such privilege or protection appears at the time response is first made or is later determined to be applicable for any reason. FPL in no way intends to waive such privilege or protection.

FPL objects to providing information that is proprietary, confidential business information without provisions in place to protect the confidentiality of the information. FPL has not had sufficient time to determine whether the discovery requests call for the disclosure of confidential information. However, if it so determines, it will either file a motion for protective order requesting confidential classification and procedures for protection or take other actions to protect the confidential information requested. FPL in no way intends to waive claims of confidentiality.

FPL is a large corporation with employees located in many different locations. In the course of its business, FPL creates numerous documents that are not subject to the Commission's or other governmental record retention requirements. These documents are kept in numerous locations and frequently are moved from site to site as employees change jobs or as business is reorganized. Therefore, it is possible that not every relevant document may have been consulted in developing FPL's response. Rather, FPL's responses will provide all the information that FPL obtained after a reasonable and diligent search conducted in connection with this discovery request. To the extent that the discovery requests propose to require more, FPL objects on the grounds that compliance would impose an undue burden or expense on FPL.

FPL objects to each Interrogatory and Request that seeks information about, or in the custody of, FPL's affiliates to the extent that such discovery requests exceed the proper scope of the Commission's inquiry about utility affiliates and/or the proper scope of discovery. As noted

in FPL's objections to the South Florida Hospital and Healthcare Association's First Set of Interrogatories and Request for Documents, the jurisdiction of the Commission concerning the parent and affiliates of a utility is limited. See §§366.05(9) and 366.093(1), Fla. Stat. (2000). Moreover, the scope of discovery from a party is limited to documents within the possession, custody or control of that party. See, e.g. *Southern Bell Telephone and Telegraph Co. v. Deason*, 632 So.2d 1377 (Fla. 1994).

FPL objects to each Interrogatory and Request to the extent that it seeks information that is not relevant to the subject matter of this docket and is not reasonably calculated to lead to the discovery of admissible evidence.

FPL objects to the instructions and to each Interrogatory and Request to the extent that they purport to impose upon FPL obligations that FPL does not have under the law or applicable rules of procedure.

FPL objects to the request that responsive documents be produced at the Commission's Tallahassee offices. FPL is required only to produce documents at a reasonable time, place, and manner.

FPL objects to the Interrogatories and Requests to the extent that they call for the creation of documents and information, rather than the production or reporting of presently existing information, as purporting to expand FPL's obligation under the law.

FPL incorporates by reference all of the foregoing general objections into each of its specific objections set forth below as though stated therein.

III. Specific Objections and Request for Clarification

Request for Production Nos. 48 - 49

Because no time period is specified, please clarify that the information sought is for the test year (2002).

Interrogatory 332-335

FPL objects to providing the requested information for the year 1997 on the grounds that it would be unduly burdensome to provide, and that the burden would outweigh the relevance.

Interrogatory 338

Please clarify the MFR about which you seek further information. FPL believes that the interrogatory was intended to seek information about MFR C-1, not C-9 as indicated, but needs a confirmation in order to respond.

Respectfully submitted,

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By: 

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Fla. Bar No. 747180

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of Florida Power & Light Company's Objections to and Request for Clarification of the Commission Staff's Eighth Set of Interrogatories and Request for Production has been furnished by United States Mail this 22 nd day of January, 2002, to the following:

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