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February 5, 2002

Ms. Blanca S. Bayo, Director
Commission Clerk and Administrative Services
Florida Public Service Commission
2540 Shumard Oak Boulevard
Betty Easley Conference Center, Room 110
Tallahassee, Florida 32399-0850

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02 FEB -5 PM 2:25
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Re: Docket No. 001148-EI

Dear Ms. Bayo:

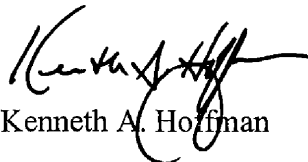
Enclosed herewith for filing in the above-referenced docket on behalf of Florida Power & Light Company ("FPL") are the original and fifteen copies of the following documents:

1. FPL's Objections to and Requests for Clarification of South Florida Hospital and Healthcare Association's Seventh Set of Interrogatories (Nos. 60-70) and Requests for Production of Documents (Nos. 57-64); and
2. A disk containing a copy of the document in Word Perfect 6.0.

Please acknowledge receipt of these documents by stamping the extra copy of this letter "filed" and returning the copy to me.

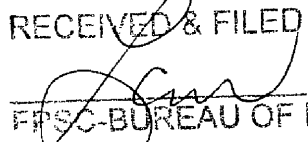
Thank you for your assistance with this filing.

Sincerely,


Kenneth A. Hoffman

AUS _____
CAF _____
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ECR _____
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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: February 5, 2002

**FLORIDA POWER & LIGHT COMPANY'S
OBJECTIONS TO AND REQUESTS FOR CLARIFICATION OF
SOUTH FLORIDA HOSPITAL AND HEALTHCARE
ASSOCIATION'S SEVENTH SET OF INTERROGATORIES (NOS. 60-70)
AND REQUESTS FOR PRODUCTION OF DOCUMENTS (NOS. 57-64)**

Florida Power & Light Company ("FPL") hereby submits the following objections to and requests for clarification of the South Florida Hospital and Healthcare Association's ("SFHHA") Seventh Set of Interrogatories and Requests for Production of Documents ("SFHHA Seventh Request").

I. Preliminary Nature of These Objections

The objections stated herein are preliminary in nature and are made at this time in compliance with the requirement 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 requested information, FPL reserves the right to file a motion with the Commission seeking such an order at the time its response is due.

II. General Objections

1. FPL objects to each and every one of the interrogatories and requests for documents 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

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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.

2. 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.

3. 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 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.

4. 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.

5. The SFHHA Seventh Request incorporates by reference the instructions that were included in the SFHHA's First Set of Interrogatories and Request for Production of Documents. FPL objects to those instructions to the extent that they purport to impose upon FPL obligations that FPL does not have under the law. Without limiting the generality of the foregoing, FPL objects to the following instructions:

Instruction 1. This instruction purports to make the SFHHA Seventh Request continuing in nature. FPL is not obligated to supplement its discovery responses with information acquired after the responses have been served and objects to Instruction 1 to the extent that it seeks to have FPL do so.

Instruction 2. This instruction seeks to have FPL serve a detailed privilege log seven days prior to service of its responses to the SFHHA Seventh Request. FPL is not obligated to serve its privilege log in advance of its responses, and FPL objects to the SFHHA Seventh Request to the extent that it seeks to have FPL do so. Moreover, Instruction 2 asks FPL to include information in the privilege log that it is not required to include, and FPL objects to the instruction to the extent that the SFHHA seeks such information. FPL will provide the information customarily included in a privilege log, as it has done in connection with its responses to the SFHHA's first and second sets of discovery requests.

Instruction 4. This instruction seeks to have FPL provide a detailed discussion of the forms in which information is available and the circumstances under which the SFHHA may inspect those forms of the information, whenever the information is not available in the form that the SFHHA has requested. The SFHHA is free to request information in whatever form it wishes, and FPL's obligation begins and ends with providing the information (subject to objections and claims of

privilege) in the requested form or advising the SFHHA that the information does not exist in that form. FPL is not obligated to provide a detailed discussion of the form in which information is available and objects to the SFHHA's instruction that FPL provide such a discussion.

Instruction 5. As a counterpart to Instruction 4, the SFHHA seeks to have FPL provide information in the form closest to that requested by the SFHHA, when it is not available in the requested form. Again, FPL's obligation begins and ends with providing information (subject to objections and claims of privilege) in the requested form or advising the SFHHA that the information does not exist in that form. FPL is not obligated to provide the information in some unspecified "form closest to that requested," and FPL objects to the SFHHA's instruction that FPL provide information in such form.

Instruction 6. This instruction could be read as seeking to have FPL provide all work papers, data, calculations and spreadsheets in executable computer program form, even where the originals of such documents in FPL's possession are not in that form. FPL is not obligated to convert documents into forms that do not presently exist. FPL objects to Instruction 6 to the extent that it is requesting FPL to convert documents to executable computer program form.

Instruction 9. This instruction requests both that documents be produced in the manner in which they are ordinarily maintained and that they be identified to the request to which they respond. FPL is obligated to do one or the other, but not both. FPL objects to this instruction to the extent that it seeks both to have FPL produce documents in the manner that they are ordinarily maintained and to identify them with the request to which they respond.

Instruction 10. This instruction seeks to have FPL produce non-responsive documents that happen to be attached to responsive ones. FPL is obligated only to produce responsive documents,

and it objects to this instruction to the extent that it seeks production of non-responsive documents. Without limiting the generality of the foregoing, FPL anticipates that it may possess documents responsive to the SFHHA Seventh Request that comprise one discrete portion of a set of materials that are bound together (as in a book, notebook or pamphlet), where the other portions are non-responsive and, in some instances, may be confidential. Producing the entire bound set of such materials would require FPL to produce non-responsive documents and also could require FPL to make a request for confidential designation that would not otherwise be necessary. In such circumstances, FPL will produce the responsive portion of the bound set of materials, but not the unresponsive portions.

Instruction 11. This instruction seeks to have FPL identify potential witnesses who may testify about the substance of responses to the SFHHA Seventh Request. FPL is not obligated to provide such information either in responding to document production requests or interrogatories in the normal course of discovery, and so FPL objects to this portion of Instruction 11. If the SFHHA wishes FPL to provide information on potential witnesses, it will treat that request as a separate interrogatory and respond to it as such. Instruction 11 also asks FPL to identify the preparer and other information about the preparation of documents where that information does not appear on the face of produced documents. FPL objects to this instruction as extremely burdensome, because it could require an investigation into the history of every unattributed note and work paper FPL produces.

Instruction 12. Similar to Instruction 6, this instruction seeks to have FPL provide all quantitative or computational information in computer database formats in which the information may not currently exist. FPL is not obligated to convert documents into forms that do not presently

exist and objects to this instruction to the extent that it is requesting that FPL convert documents to computer database formats.

Instruction 13. This instruction purports to impose limitations on FPL's responding by cross-reference to other responses. FPL does not generally object to the limitations, but notes that the instruction refers to a "TCPM request," which is not a defined term in the SFHHA Seventh Request.

Instruction 14. This instruction requests FPL to send its responses to the SFHHA's counsel and its party representative. FPL objects to this instruction to the extent that it seeks to have produced documents delivered to the SFHHA rather than made available for inspection at FPL's offices at 9250 West Flagler Street, Miami, Florida during normal business hours.

6. The SFHHA Seventh Request incorporates by reference the definitions that were included in the SFHHA's First Set of Interrogatories and Request for Production of Documents. FPL objects to the definitions set forth in the SFHHA Seventh Request to the extent that they purport to impose upon FPL obligations that FPL does not have under the law. Without limiting the generality of the foregoing, FPL objects to the following definitions:

"FPL" This definition purports to include FPL's parent and its affiliates. The jurisdiction of the Florida Public Service Commission -- and hence the permissible scope of inquiry in this proceeding -- concerning the parent and affiliates of a utility is limited. *See* §§366.05(9) and 366.093(1), Fla. Stat. (2001). 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 the inclusion of FPL's parent and affiliates within the definition of "FPL" to the extent that it expands the scope of the SFHHA

Seventh Request beyond the bounds of the Commission's jurisdiction and/or the permissible scope of discovery.

"Document" This definition is overbroad in that it would require FPL to produce documents that are not responsive to a request, but that merely have a "factual, contextual or logical nexus" to the request. FPL is not obligated to guess as to such nexuses; it is obligated only to produce documents responsive to the requests. FPL objects to the definition of "document" to the extent it seeks to have FPL do more.

"Communication" This definition is overbroad for the same reason as the definition of "document." FPL will respond to requests concerning communications that are responsive to the requests; it will not guess as to the existence of a "factual, contextual or logical nexus" to the requests.

"Substance" This definition would require FPL to explore the "essence, purport or meaning" of a communication or act, in addition to the actual words or actions involved. FPL objects to this attempt to draw it into epistemology and metaphysics.

"Relating" FPL objects that this definition is overbroad, because it defines what is "related" so expansively that FPL cannot meaningfully discern and apply limits to the extent of the SFHHA Seventh Request.

7. FPL objects to the SFHHA Seventh Request to the extent that it calls for the creation of analyses, information or documents not already in existence, rather than the provision of presently existing information or documents, as purporting to expand FPL's obligation under the law.

8. FPL objects to providing information to the extent that such information is already in the public record before the Florida Public Service Commission and available to the SFHHA through normal procedures.

9. The interrogatories and requests for documents in the SFHHA Seventh Request refer to the “Company” rather than “FPL.” The term “Company” is not defined in either the the SFHHA First Request’s set of definitions or the SFHHA Seventh Request. FPL will assume that all references in the SFHHA Seventh Request to the “Company” is intended to refer to FPL and will respond accordingly, subject to the above objections to the breadth of FPL’s definition of “FPL.”

10. 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 Requests for Clarification

Interrogatory Nos. 60-63: FPL objects to SFHHA Interrogatory Nos. 60-63 on the basis that SFHHA has included interrogatories numbered 60, 61, 62 and 63 in both SFHHA’s Sixth Set of Interrogatories and Seventh Set of Interrogatories. Order No. PSC-00-2105-PCO-EI issued November 6, 2000, requires that discovery requests be “numbered sequentially in order to facilitate their identification.” Counsel for FPL has brought this numbering discrepancy to the attention of SFHHA’s counsel and has requested that SFHHA serve an amended Seventh Set of Interrogatories with correct sequential numbering with the understanding that service of the renumbered interrogatories would not initiate a new 20 day response time. SFHHA has not responded to FPL’s offer as of the date of this filing.

Interrogatory No. 66: Interrogatory No. 66 requests FPL to “identify all sales of U.S. nuclear generating facilities of which Mr. Avera is aware, and indicate his understanding of when the

transactions occurred and the sales price.” FPL objects to this interrogatory on the grounds that it seeks information that is outside the scope of discovery under Rule 1.280(b)(1), Florida Rules of Civil Procedure, and would require FPL to undertake research and analysis to secure the data sought by SFHHA herein which is not in FPL’s possession. Mr. Avera’s testimony does not discuss sales of U. S. nuclear generating facilities, information regarding sales of such facilities is not reasonably calculated to lead to admissible evidence concerning Mr. Avera’s testimony, and, in any case, FPL has no obligation to undertake such research for the benefit of SFHHA.

Interrogatory No. 67: FPL believes that SFHHA incorrectly cited to SFHHA’s Second Set of Interrogatories, No. 8, parts I. E, II.E and III.E in this interrogatory and that the correct reference should be SFHHA Interrogatory No. 7. For purposes of clarification, FPL intends to respond to Interrogatory No. 67 with the understanding that the intended reference therein is to SFHHA Interrogatory No. 7 unless otherwise advised by counsel for SFHHA.

Interrogatory No. 68: Interrogatory No. 68 states as follows:

68: Please identify each FERC proceeding in which Mr. Avera has offered testimony, and the party sponsoring the testimony, the date, docket number, case name related to such testimony and summarize the topic(s) addressed by such testimony.

For purposes of clarification, FPL understands that SFHHA’s use of the word “summarize” in Interrogatory No. 68 may be reasonably interpreted by the provision of a descriptive listing of the topics addressed by Mr. Avera in testimony that he has presented in FERC proceedings, and FPL intends to respond to Interrogatory No. 68 consistent with such interpretation.

Interrogatory No. 69: Interrogatory No. 69 states as follows:

69: For each entity listed on Exhibit __, Schedule WEA-2, please provide Mr. Avera’s understanding of the proportion of each entity’s

investment in and earnings derived from (1) natural gas operations (2) electric utility operations whose rates are regulated on a cost-of-service basis, (3) other electric operations and (4) other activities.

FPL objects to Interrogatory No. 69 on the basis that the analysis requested by SFHHA was not undertaken by or on behalf of Mr. Avera in the preparation of his prefiled direct testimony filed in this proceeding and FPL has no obligation to undertake additional research and analysis on behalf of SFHHA. Accordingly, FPL incorporates by reference its objections to SFHHA Interrogatory No. 66 as though fully set forth herein.

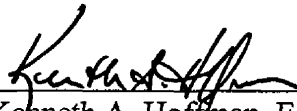
Respectfully submitted,

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-- and --

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Attorneys for Florida Power & Light Company

By: 
Kenneth A. Hoffman, Esq.

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 South Florida Hospital and Healthcare Association's Seventh Set of Interrogatories has been furnished by United States Mail this 5th day of February, 2002, to the following:

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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

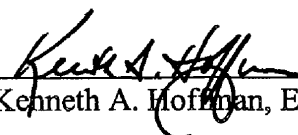
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