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March 4, 2002

**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 the retail rates of Florida Power & Light Company,  
Docket No. 001148-EI

Dear Ms. Bayo:

Enclosed are the original and eight copies of the Motion of South Florida Hospital and Healthcare Association To Compel Discovery Responses in the above referenced docket.

Please acknowledge receipt and filing of the above by stamping the duplicate copy and returning same in the enclosed self-addressed stamped envelope to the undersigned.

Thank you for your assistance in connection with this matter.

Very truly yours,

*Mark F. Sundback*

Mark F. Sundback  
An Attorney For the Hospitals

AUS \_\_\_\_\_  
CAF \_\_\_\_\_  
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Enclosures  
cc: Counsel for Parties of Record

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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: )  
Review of the retail rates of )  
Florida Power & Light )  
Company )

Docket No. 001148-EI  
Date Filed: March 4, 2002

MOTION OF SOUTH FLORIDA HOSPITAL  
AND HEALTHCARE ASSOCIATION  
TO COMPEL DISCOVERY RESPONSES

To: Honorable Commissioner Braulio L. Baez  
Prehearing Officer

Pursuant to Rule 28-106.303 of the Florida Administrative Code (“FAC”), the South Florida Hospital & Healthcare Association ( “SFHHA”) hereby moves for issuance of an order compelling full responses by Florida Power & Light Company (“FPL”) to discovery requests identified below.

I.

The very first paragraph of the October 24, 2002 “Order Establishing Procedure” addressing discovery required that in this proceeding:

When discovery requests are served and the respondent intends to object or to ask for clarification of the discovery requests, the objection or request for clarification shall be made within ten days of service of the discovery request. This procedure is intended to reduce delay in resolving disputes. [Page 1].

SFHHA propounded discovery requests in the captioned proceeding on February 5, 2002, provided by overnight delivery service to FPL on February 6, 2002. A copy of the requests is contained in Attachment A. However, “Florida Power & Light Company’s Objections And Request For Clarification of South Florida Hospital and Healthcare Association’s Eighth Set of Interrogatories (Nos. 75-139) and Request For Documents (Nos. 65-95)” (hereinafter, “FPL’s Objections and Clarification Request”), excerpts of which are appended hereto as Attachment B,

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was not propounded until February 19, 2002 – more than ten days after FPL had been served with the underlying discovery requests.

As a consequence, FPL's objections are untimely and should be rejected. No debate on the merits is required because FPL was untimely in its objections. As this proceeding moves closer to hearing, the intervenors become increasingly disadvantaged by FPL's delays. Unfortunately, as will be described below, the untimeliness of FPL's pleading is not the only example of delay resulting from FPL's Objections and Clarification Requests.

## II.

FPL has found another method of delaying responses. In FPL's Objections and Clarification Request, FPL speculated that the headings on various SFHHA discovery requests (appended to convey the relevance of the request to FPL's evidence) "suggests that the SFHHA intends them as discovery into the basis and support for the FPL witness' testimony. They will be answered from that perspective." FPL's Objections and Clarification Requests, p. 9. Phrased another way, FPL was declaring it would not provide materials generally in the Company's possession, but rather, intended to provide only documents upon which the witness relied (thereby screening out inconsistent evidence in FPL's possession). Of course, if FPL was attempting to understand the intended scope of SFHHA's discovery requests, which "suggest" an interpretation, the easiest way to resolve doubt would be to pick up the telephone and seek clarification from the party propounding them.

FPL elected not to do this. Instead, in an untimely pleading, FPL obviously made an interpretation, one which, from the face of the objections, FPL knew was certainly not the only, or even best, interpretation. Consider, for instance Interrogatory No. 139, which asks

Please state the reserve[ ] margin anticipated for the period 2002 through 2110 based upon the revised economic forecast performed post-September 11, 2001.

A moment's reflection would indicate that a response limited to analyses and data that serve as the "basis and support" of Mr. Waters' testimony (as initially offered by FPL) by definition would tend to screen out inconsistent or potentially impeaching documents.

Upon reviewing FPL's Objections and Clarification Requests, SFHHA on February 22, 2002 called FPL to say that SFHHA disagreed with FPL's interpretation. The following business day, February 25, SFHHA additionally sent FPL a letter confirming the proper interpretation of the requests. In FPL's responses to other requests, received by SFHHA on February 27, 2002, FPL stated that it would start the 20 day response period all over again, beginning February 25, 2002, for the requests in dispute.

The effect of FPL's maneuvers is obvious. The responses to the requests were due February 26, 2002 so that they could be incorporated into SFHHA's direct testimony. Instead, by attempting to restart the response period from scratch 20 days after the underlying requests were served, FPL will make responses available so late that they could not be used for purposes of preparing either SFHHA's testimony or the prehearing statements.

FPL's Alice In Wonderland discovery drill does not bring credit to the discovery process.

At a minimum, FPL could have:

- sought clarification by simple picking up the phone;
- sought clarification within a time period consistent with procedures established herein;
- provided whatever limited responses the witness identified in the "Witness Interrogatories" had assembled by February 26, 2002, rather than use FPL's recalcitrance to try to reset the discovery response clock back to zero so as to further delay responses.

Enough is enough. FPL's contempt for observing the scheduled discovery process is now manifest, between the conduct outlined in this motion and that described in SFHHA's motion to compel filed March 1, 2002 in this docket. Combined with FPL's choice not to observe the decision of the Presiding Judge regarding SFHHA's Interrogatory Nos. 32 and 33, FPL has thrown more than enough sand in the gears of the administrative process. It is time for sanctions.

To incent FPL to play by the rules and maximize the timeliness of its responses and filings, SFHHA respectfully requests attorneys' fees associated with gaining access to the discovery responses addressed in SFHHA's two pending Motions to Compel and associated with pursuing the disposition of the February 27, 2002 order of the Prehearing Officer which FPL has chosen to disregard. In the alternative, SFHHA moves to strike those portions of FPL's testimony referenced in the presently overdue discovery responses. Sanctions are appropriate because FPL's conduct is clearly designed to repeatedly delay substantive responses and are inconsistent with the Commission's announced goal to "reduce delay in resolving discovery disputes," as contemplated by the Commission's October 24, 2000 Order Establishing Procedure in this docket.

### III

FPL also lodged objections regarding specific discovery requests which are as meritless as its general objections. SFHHA respectfully requests that these objections be denied.

#### **Interrogatory No.137.**

For example, FPL objects to Interrogatory No. 137. Interrogatory No. 137 reads as follows:

Since 1985, please indicate all offers FPL has received for it to purchase energy from independent power projects that proposed to be constructed within the FPL control area. For each such opportunity, please provide the total capacity offered and the proposed price per megawatt hour.

FPL tortures the language of the request in order to concoct an objection. FPL places exclusive emphasis on the word “energy” in the request’s first sentence - - and completely ignores the reference to “capacity” in the second - - to argue that the cost of *energy* purchases is recovered through power adjustment clauses. FPL notes that this proceeding involves base rates, and, based upon this contorted reading, FPL argues that the request becomes irrelevant.

This objection merits only the briefest attention. For starters, the question on its face inquires about the “capacity offered” FPL. FPL ignores this language and instead cribs only a reference to “energy.” Of course, the term energy can be used either in a generic sense, or in order to distinguish a transaction from that involving capacity. However, given that the second sentence of the request expressly references “capacity” while cross-referencing the “opportunity” in the first sentence, FPL’s narrow interpretation of the term “energy” makes no sense.

In any event, even if one accepted FPL’s effort to ignore half of the request, (*i.e.*, the second sentence expressly referencing “capacity”), the request is still relevant to this proceeding, as FPL clearly knows. FPL witness Waters testifies about “power purchase costs” (*see* Direct p. 40: 13-22). Moreover, offers to sell energy are indicative of the value of power, and to the extent FPL attempts to justify the prudence of major investments in generating plant, data regarding the cost of power are relevant. The data also are relevant because FPL claims that it faces exposure on its contracts under which it acquires power from, *inter alia*, an affiliate of the Southern Company. Of course, the *real* exposure FPL experiences under that contract is not the total cost of acquiring the power, but rather the difference between that cost and what the power could be sold for in the market.

Thus, SFHHA Interrogatory No. 137 is entirely appropriate and FPL should respond to it.

**Interrogatory No. 129**

Further, FPL objected to Interrogatory No. 129. It would be hard to envision an objection more devoid of merit. Interrogatory No. 129 reads as follows:

Please state whether FPL has issued any requests for proposals to fulfill all or some portion of its margin reserve requirements. If the answer is in the affirmative, please provide copies of the RFP's and all responses that were received. Please also state whether FPL accepted any of the proposals and identify which proposals were accepted. If FPL has not accepted any of the proposals, please explain why. If FPL has not issued any requests for proposals for new generation, please explain the failure to provide such an RFP.

FPL objects to this request in part because an RFP issued in 2001 “would help meet its reserve margin requirements in the 2005/2006 timeframe, [and] . . . FPL’s 2002 test year includes nothing in rate base or expenses for that capacity.” FPL’s Objections and Clarification Request, p. 11.

FPL’s objection on this score is wholly disingenuous. Presumably FPL is familiar with its own testimony in this proceeding; indeed, the requests at issue relate to that testimony. FPL’s Mr. Waters discusses at some length:

- FPL’s reserve margin standards ( Direct, p.6: 10 –22; p. 7: 21 - p. 8: 8);
- FPL purchase arrangements running through 2006 (Direct, p. 39: 16 – p. 40: 12); and
- Reserve margins through 2006-2007 (Direct, p. 45: 19 – p. 46: 15); Exh. \_\_\_\_, Document No. SSW – 17.


FPL cannot have it both ways. Either these topics are relevant, and Interrogatory No. 129 therefore is as well, or these and related topics are irrelevant, and FPL's testimony should be stricken.<sup>1</sup>

**IV.**

WHEREFORE, for the foregoing reasons, SFHHA respectfully requests that:

- (1) FPL's objections be deemed untimely and rejected;
- (2) FPL be subjected to sanctions as identified herein;
- (3) If the relief in (1) is not granted, then FPL's objections as addressed above herein be rejected; and
- (4) FPL be directed to respond promptly to the requests identified herein.

Respectfully submitted,

  
\_\_\_\_\_  
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Ph. (202) 662-3030; Fax (202) 662-2739

ATTORNEYS FOR SFHHA

March 4, 2002

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<sup>1</sup> SFHHA in this request seeks data involving the period on and after January 1, 1999, so that FPL's objection regarding the 1989 RFP is irrelevant.



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

I HERBY CERTIFY that a true and correct copy of the foregoing will be furnished by facsimile\* and U.S. Mail to the following parties, this 32<sup>nd</sup> day of March, 2002.

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Florida Public Service Commission  
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Mark F. Sundback

# **ATTACHMENT A**

**BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

**In re: Review of the retail rates of** § **Docket No.: 001148-EI**  
**Florida Power & Light Company** § **Date Filed: February \_\_, 2002**

**SOUTH FLORIDA HOSPITAL AND HEALTHCARE ASSOCIATION'S  
EIGHTH SET OF INTERROGATORIES NOS. (75-139) AND  
REQUEST FOR PRODUCTION OF DOCUMENTS  
(NOS. 65-95) TO FLORIDA POWER AND LIGHT COMPANY**

Pursuant to Rule 25-22.034, Florida Administrative Code, and Rule 1.350, Florida Rules of Civil Procedure, South Florida Hospital and Healthcare Association ("SFHHA"), by and through its undersigned attorneys, hereby serves the following Interrogatories (Nos.75-139) and Request For Production of Documents (Nos. 65-95), upon Florida Power and Light Company (FPL).

Please provide the following responses and documents as directed below, no later than twenty (20) days after service of this request unless a shorter response period has been designated by the Commission.

**INSTRUCTIONS AND DEFINITIONS**

SFHHA hereby incorporates by reference the Instructions and Definitions included in its First Set of Interrogatories and Requests for Production of Documents.

**1. INTERROGATORIES**

**General Questions**

75. Provide an explanation of the basis for rebates or distributions from NEIL.
76. Does the Company agree with the proposition that NEIL distributions credited for periods during which premiums were included in rates should be returned to ratepayers? If the answer is yes, explain how the company proposes to credit ratepayers with such distributions. If the answer is no, please explain the basis for your answer.

77. Please identify the ratemaking allowance for insurance provided by NEIL from the first year such insurance was obtained to the present.
78. Identify the annual amounts actually paid for NEIL insurance from the first year such insurance was obtained to the present. For each year, show at a minimum, the titles of the individual policies; the base policy premium; any credits or penalties; any other adjustments and distributions.
79. Provide the amount of the Capitalized Account Balance associated with membership in NEIL for each year in which such membership has been maintained by the company.
80. Describe the company's position regarding the issue of non-insured members of NEIL as it relates to the status of Member Account Balances in future distributions.
81. Explain the implication of the company's position on non-insured NEIL members for ratepayers.
82. Please state whether the company was a member of Nuclear Material Limited ("NML").
83. To the extent that FPL accumulated a Capitalized Member Account Balance, or other comparable consideration associated with coverage by NML, explain how such consideration was completed upon the merger of NML and NEIL.
84. Please identify the amount of net plant transferred by FPL to FPL FiberNet by year, and the rate of depreciation applicable thereto prior to the transfer; if more than one rate of depreciation was applicable, identify the amount of net plant subject to each of the rates of depreciation.

**Re: Testimony and Exhibits of John G. Shearman**

85. With respect to Document JMS-3, please indicate the size of the sample (a) within the United States and (b) outside the United States. Please indicate the type(s) of reactor operated by FPL, and the proportion of reactors of that type in the sample population, broken out as between those in the United States and those outside of the United States. Please identify the other type(s) of reactors that are contained in the sample population and the relative percentages that each represents of the sample population. Please provide a comparable set of data for Documents JMS-4 and JMS-5. In the witness' opinion, what is the cause of the significant decrease in forced outage rates for the sample group from 1997 through 2000.
86. With respect to Document JMS-6, please provide the capacity-weighted average age of FPL generation, and the capacity-weighted average of the capacity included in the sample. Please describe the types of fuel utilized in the sample capacity, and the portion of capacity in the sample using each type of fuel and provide comparable information for

- FPL. Is it the witness's experience that age and type of unit may affect the level of outage or availability? Please provide information comparable to the foregoing for Document JMS-7.
87. Please provide the data and show graphs comparable to Documents JMS-10 and 11 if fuel, purchased power and ECCR are included.
  88. With respect to Document JMS-12, please provide a comparable graph using net plant per customer.
  89. With respect to Document JMS-12, please compare the average population density per square mile associated with the national sample to that experienced in FPL service territory, and identify the sources (by publication title, date, publisher and page number) of data supporting your response.
  90. Please provide the underlying data for Documents JMS-13, JMS-14, JMS-15 and JMS-19 through 21.
  91. With respect to Documents JMS -10 and JMS-19 through JMS-25, please compare the level of growth in the aggregate number of customers and kilowatt hours sold as between, on the one hand, FPL and on the other, the various "panels" or peer groupings (e.g., national, regional, and large).
  92. With respect to Documents JMS-3 through JMS-5, please provide (a) refueling schedules for the FPL units, and (b) the refueling schedules for the survey sample units.
  93. With respect to Documents JMS-3 through JMS-5, please provide data comparable to that contained in the documents using only those nuclear units of the same technology as the FPL units (e.g., BWR), and identify the sources (by publication title, date, publisher and page number) of data supporting your response.
  94. With respect to Documents JMS-6 and 7, please provide data comparable to that contained in the Documents, sorted by type of fuel burned in the units, for (a) FPL and (b) the sample.
  95. With respect to page 11:17-21, please identify each "adjustment" made to the data, and provide all workpapers effecting the adjustments. Please describe why, in your opinion, each adjustment was necessary or desirable. Please provide graphs, comparable to those you have sponsored using adjusted data, reflecting the unadjusted data.
  96. With respect to page 13: 22 to page 14: 10 and Documents JMS-13 through JMS-15, are the "price" data derived from rates filed subject to refund, or from rates that are finally approved and no longer subject to revisions, or rates in effect but still subject to revision at least on a prospective basis in a pending proceeding, and are they net of, or are they

without regard to, surcharges, riders or other adders to base rates? Please provide the documents supporting your answer.

97. With respect to page 14: 20-22 and Document JMS-23, please indicate the level of accumulated deferred income taxes recognized in the calculation of “net asset base per customer,” and identify the sources (by publication title, date, publisher and page number) of data supporting your response.
98. Please discuss and describe in detail and provide all documents related to, Mr. Shearman’s investigation concerning whether, or the extent to which, FPL’s efforts to reduce costs during the period 1999 – 2001, will cause or could cause costs in any category to increase for any period following 2001. If Mr. Shearman did not investigate that topic please so state.
99. Please quantify in Mr. Shearman’s opinion the amount of increase in net profits that FPL enjoyed during the period 1999- April 1, 2002 as a result of FPL’s lower costs and efficiency enhancements. Please provide your workpapers and supporting documents and describe how you went about calculating the amount.
100. With respect to Mr. Shearman’s testimony and exhibits please compare the weighted average age of the FPL generation fleet with that of the various samples that are used for comparison purposes in Mr. Shearman’s materials.

**Re: Testimony and Exhibits of M. Dewhurst**

101. With respect to page 9: 10-14, how do we determine, in the witness’ opinion how a company is seen through current and potential investors’ eyes? Describe the basis for your conclusion.
102. With respect to page 12: 4-9, please quantify the impact that you have factored into the company’s request for return on equity associated with this reduced risk. Please provide all workpapers.
103. With respect to page 20: 1-14 when assessing the exposure posed by the purchased power agreements, please indicate the presumed market value of the power to the extent it would have to be sold in the market rather than consumed by FPL. Please identify and explain all assumptions behind your calculation.
104. With respect to page 21: 3-6, please identify each reason for the downgrade from “AA” to “A”, and quantify the impact of each factor on the decision.
105. For each year since the establishment of the storm fund reserve, please show the accruals to, and the expenditures from the reserve.

**Re: Testimony and Exhibits of Mark Bell**

106. Referring to page 10:22, please describe all reasons that support the increase in O&M expense of \$23 million.
107. Referring to page 10:24, please describe all reasons that support the decrease in capital of approximately \$76 million.
108. Referring to page 11: 1-2, please describe all reasons that support the forecast of the decrease in revenues of \$100 million.
109. Referring to page 2: 20- 3:2 and page 13: 22 – p. 14: 2, please identify each assumption the witness reviewed, describe the level of review Mr. Bell performed of such assumption, describe the method of testing of each assumption to determine if it was reasonable, identify each step in your analysis, provide your workplan and any other document describing the scope of your analysis; identify the fee charged for these services and the individuals involved; and provide copies of your workpapers, including the data samples tested and the conclusions reached.
110. Please state whether FPL's forecasting system includes models that utilize regression analysis. Please provide all statistical tests or measures the reliability and/or accuracy, of any computer model, simulation, computation or statistical calculation related to the Company's testimony, including: F statistics; R bar squared statistics; T-statistics; root-mean-squared statistics; Durbin-Watson statistics; and standard error coefficients or measures. Please provide all other measures of statistical reliability generated with respect to the model, its predecessors or its projections or any documents relating to the accuracy or reliability of the model, or its results.

**Re: Testimony and Exhibits of James K. Peterson**

111. Referring to pages 3-9: for the period beginning January 1, 1994, please provide the following data on an annual basis for each of FPL and the services company whose costs are allocated to FPL:
  - (a) the full time equivalent weighted average headcount of employees; and
  - (b) the total payroll costs associated with each annual headcount by company by FERC account number.

Also, please identify for the period the total annual payroll cost attributed by the services company to FPL, by FERC account number (if available).

**Re: Testimony and Exhibits for Michael Davis**

112. Referring to Document KMD-1, page 32 of 41, please explain the methodology used to determine compensation per hour.
113. With respect to Document KMD-1, page 33 of 41, please explain the basis for the determination that the prime interest rate in 2002 would be 7.1 percent. In providing your response, please describe all assumptions used in the determination. Also, please provide all workpapers that support the 7.1 percent prime interest rate. Also, please set forth each 12 month period during the preceding 30 years when the level of the prime interest rate has increased by 40 percent or more in a 12 month period.
114. With respect to Document KMD-1, page 40 or 41, please state the current balance in FPL's nuclear decommissioning reserve.
115. With respect to Document KMD-1, page 22 of 41, please describe the methodology used in, and provide all workpapers that support, the reevaluation of FPL's sales forecast made subsequent to the 9/17/01 MFR filing.
116. Please state the discount rate that was used for purposes of Statement of Financial Accounting Standards No. 87, Employer's Accounting For Pensions (FAS 87) and Statement of Financial Accounting Standards No. 106, Employer's Accounting For Post-Retirement Benefits Other Than Pensions (FAS 106).
117. Please state the amount of the distributions that FPL has received from its nuclear property insurer ("NEIL") each year for the period 1995 through 2001. Additionally state the expected distribution from NEIL in 2002 and 2003.
118. Please provide a detailed breakdown of the costs encompassed in the \$5.4 million claim for rate case expenses.

**Re: Testimony and Exhibits of Steven E. Harris**

119. For each model utilized, please provide a listing of all inputs into the model. For each input assumption, please provide a description of the basis for the assumption.
120. With respect to the Solvency Analysis, please describe the reasons for not including variability in storm frequency and severity distributions.
121. Referring to Table 6-1, please state the SSI level associated with the each hurricane.
122. With respect to table 6-1, please describe the differences between the data in row "FPL Actual Losses" and the data in the row "FPL Losses in 1999 \$\*".



123. With respect to hurricanes at levels SS 1 through SS 5, please state the probability of each occurring during the year. Please also state the number of years between expected occurrences at each hurricane level.
124. Separately for hurricane levels SS 1 through SS 5, please calculate exceedence probabilities in the form of Table 9-2.
125. Referring to Document SPH-2, page 23, please state whether the projected expenses for T&D and other were generated by a computer model or were input assumptions. If the expenses were input assumptions, please describe all reasons that support the level and timing of the expected expenses.
126. For each model utilized in your analysis, please provide all statistical tests or measures of the reliability and/or accuracy, of each such model, including: F statistics; R bar squared statistics; T statistics; Root mean squared statistics; Durban Watson statistics; and standard air co-efficients or measures. Please provide all other measures of statistical reliability generated with respect to the model, its predecessors or its projections or any documents relating to the accuracy or reliability of model, or its results.

**Re: Testimony and Exhibits of Paul J. Evanson**

127. For each year from 1985 through 2001, please state the range of FPL's authorized rate of return on equity and actual return on equity. Additionally, for each year in which FPL's rate of return on equity exceeded the authorized high point, please state the amount by which FPL's return on equity exceeded the return that would have been achieved based upon the highest authorized rate of return on equity.

**Re: Testimony and Exhibits of Samuel S. Waters**

With respect to Document No. SSW-4, please provide the capacity-weighted average of FPL generation, and the capacity-weighted average of the capacity included in the sample. Please describe the types of fuel utilized in the sample capacity, and the portion of capacity in the sample using each type of fuel and provide comparable information for FPL. Please state whether it is the witness' experience that age and type of unit may affect the level of availability? Please identify the 22 utilities that comprise the sample. Please provide information comparable to the foregoing for Document SSW-6.

Please state whether FPL has issued any requests for proposals to fulfill all or some portion of its margin reserve requirements. If the answer is in the affirmative, please provide copies of the RFP's and all responses that were received. Please also state whether FPL accepted any of the proposals and identify which proposals were accepted. If FPL has not accepted any of the proposals, please explain why. If FPL has not issued any requests for proposals for new generation, please explain the failure to provide such an RFP.

130. With respect to Document No. SSW-9, please identify the utilities that were included in the graph of the industry average. For each such utility, please identify the age and type of fuel used in its plants.
131. Referring to page 23, line 11, please provide all assumptions that were used in estimating the proxy prices of \$400 and \$500 per kilowatt hour.
132. Referring to page 24, please explain the basis for the estimate of nuclear fuel costs at \$4 per megawatt hour and oil and gas fuel costs at \$30 per megawatt hour. Also, please provide workpapers supporting your calculations.
133. Referring to page 38, lines 8 through 10, please explain why the commercial/industrial load control program currently is closed to new customers. Please state the date that the program was closed and describe FPL's intent, if any, to reopen the program.
134. Referring to page 39, lines 20 through 21, please indicate whether the 445 megawatts of qualifying facility capacity is under one or multiple contracts. For each such contract, please identify the seller, the energy requirement under the contract, and the duration of the contract.
135. Please provide a copy of each contract associated with the 445 megawatts of qualifying facility capacity referenced at page 39, lines 20 through 21.
136. Referring to page 40, lines 8 through 10, please state whether the purchases of 886 megawatts of capacity are pursuant to long-term agreements, or whether the energy is purchased on an as available basis.
137. Since 1985, please indicate all offers FPL has received for it to purchase energy from independent power projects that proposed to be constructed within the FPL control area. For each such opportunity, please provide the total capacity offered and the proposed price per megawatt hour.
138. Please state whether FPL analyzed the impact on ratepayers of repowering the Ft. Myer's and/or Sanford units versus purchasing an equivalent amount of energy from independent power producers. If the answer is in the affirmative, please produce all documents reflecting FPL's analysis.
139. Please state the reserved margin anticipated for the period 2002 through 2110 based upon the revised economic forecast performed post-September 11, 2001.

## **II. DOCUMENT PRODUCTION REQUESTS**

65. Provide copies of the annual report and/or "Summary of Operations" issued by Nuclear Electric Insurance Limited ("NEIL") for the two most recent reporting years.

66. Provide copies of all correspondence or documentation of any kind exchanged between the company and NEIL since January 1, 1998.
67. Provide copies of all documents generated by the company, its agents or contractors which deal in any way with insurance coverage provided by NEIL.
68. Provide copies of all workpapers or other documents relied upon in developing the test year estimates of NEIL premiums and rebates, and the annual NEIL costs for the projected test year.

**Re: Testimony and Exhibits of John G. Shearman**

69. Please provide a copy of the engagement letter, contract or agreement(s) governing the testimony of each witness in this proceeding, including amendments(s) thereto. The hourly rate of the witness may be deleted from the document.
70. Please provide all documents related to whether a utility has any discretion in the level of O&M costs' timing. Please provide all documents related to whether a utility has discretion in incurring capital costs.
71. Please provide all documents involving FPL costs that Mr. Shearman reviewed to determine that projected increases in FPL following 2001 are appropriate.
72. Please provide copies of all studies, assessments or reports performed by UMS for or on behalf FP&L.
73. Please provide a copy of Mr. Shearman's address entitled "How to Make Money in the Wires Business."

**Re: Testimony and Exhibits of M. Dewhurst**

74. With respect to page 3: 1-7, please provide a copy of the S&P issuance and any press release issued in response thereto by FPL.
75. With respect to page 18:20 through 19: 3, please provide all workpapers and related documents supporting or involved in the calculation discussed there.
76. With respect to page 29: 18-23, please provide a copy of any direction that was provided by FPL to ABS Consulting including letters, memoranda, engagement documents, contracts and agreements.

**Re: Testimony and Exhibits of Mark R. Bell**

77. Please provide a copy of the American Institute of Certified Public Accountant's "Guide For Prospective Financial Information."

78. Please produce all recalculations of computations referred to at page 9:23, including workpapers.
79. Please provide a copy of the report referenced at page 12:10 of the testimony of Mark R. Bell.
80. Please provide all comparisons of forecasts to actual amounts for the years 1998, 1999 and 2000.

**Re: Testimony and Exhibits of Dr. Stuart J. McMnamin**

81. Please produce copies of all documents reviewed by Dr. J. Stuart McMnamin as part of the analysis discussed at page 8:5 through page 10:13 of his testimony.
82. Please produce all documents that support the assertion that computer equipment accounts for 5 percent or less of current electricity usage and that this will grow to 50 percent of total use is not realistic set forth at page 12: 10-12 of Dr. McMnamin's testimony.

**Re: Testimony and Exhibits of Michael Davis**

83. With respect to Document KMD-1, page 32 of 41, please provide all workpapers that support the interest rates set forth in items a through e.
84. Please provide workpapers that support FPL's discount rate for purposes of FAS 87 and FAS 106. Also please provide the discount rate survey of 20 corporate clients that FPL's actuaries used in relation to FAS 87 and FAS 106.

**Re: Testimony and Exhibits of Steven E. Harris**


85. Please produce documentation for each computer model referenced in your testimony.
86. Referring to Document SPH-1, page 19, please provide all data design standards and engineering judgments that were provided to EQE by FPL.
87. Please provide the study that formed the basis for the discussion at page 37 of Document SPH-1.
88. Referring to Document SPH-1, page 38, please provide copies of the nuclear industry studies that provide the frequency and severity of nuclear accidents.
89. Referring to Document SPH-1, page 40, please provide copies of the level 1 PRA studies referred to therein.

90. Please produce copies of each of the seven documents which are references set forth in Document SPH-1, page 44.

**Re: Testimony and Exhibits of Samuel S. Waters**

91. Please provide a copy of the UPS agreement with the Southern Companies referred to at page 40, lines 1 through 2.
92. Please provide a copy of all agreements concerning the ownership and power purchase agreements associated with the St. John's River Power Park.
93. Please provide copies of the short-term agreements referred to at page 40, lines 10 through 12.
94. Please produce all studies which evaluated the economics of repowering the Ft. Myers and/or Sanford units versus purchasing energy from independent power producers.
95. Please state whether Document SSW-20 reflects FPL's entire analysis of the cost of others constructing combined cycle plants during the period 1991 through 1999. If not, please produce all documents that show the costs of others building combined cycle plants during the relevant time period.

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Attorneys for the Hospitals and SFHHA

February \_\_\_, 2002

**BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

**In re: Review of the retail rates of  
Florida Power & Light Company**

§  
§

**Docket No.: 001148-EI  
Dated Filed: February 5, 2002**

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that the original of South Florida Hospital and Healthcare Association's Eighth Set of Discovery Requests have been served by Federal Express to John T. Butler, Esquire, Steel, Hector & Davis, 200 South Biscayne Boulevard, Miami, Florida 33131 on behalf of Florida Power and Light Company and that a true copy thereof has been furnished by U.S. mail this 5<sup>th</sup> day of February, 2002 to the following:

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Mark F. Sundback

## **ATTACHMENT B**



**BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

<b>In re: Review of the retail rates of</b>	)	Docket No. 001148-EI
<b>Florida Power &amp; Light</b>	)	Dated: February 19, 2002
<b>Company.</b>	)	
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**FLORIDA POWER & LIGHT COMPANY'S  
OBJECTIONS TO AND REQUESTS FOR CLARIFICATION OF  
SOUTH FLORIDA HOSPITAL AND HEALTHCARE ASSOCIATION'S  
EIGHTH SET OF INTERROGATORIES (NOS. 75-139)  
AND REQUEST FOR DOCUMENTS (NOS. 65-95)**

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

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 afforded by law, whether such privilege or protection appears at the time response is

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

## II. **Specific Objections and Request for Clarification**

Interrogatory Nos. 78 and 79. FPL objects that the time period covered by these interrogatories is unduly burdensome, and that information from the earlier portion of that time period is irrelevant and not reasonably calculated to lead to the discovery of admissible evidence in this proceeding. The interrogatories ask FPL to identify certain insurance policy and payment information about Nuclear Electric Insurance Limited (“NEIL”), for each year in which FPL has been a member of NEIL. FPL joined NEIL in the early 1980s, so the interrogatories are asking FPL for information spanning nearly twenty years. There is no way that FPL’s NEIL insurance coverage or its payments to or credits from NEIL over twenty years ago could meaningfully affect the 2002 test year that is at issue in this docket. FPL will respond to Interrogatory Nos. 78 and 79 for the period from 1998 to present.

Interrogatory Nos. 80 and 81. FPL objects that these interrogatories seek information that is irrelevant and not reasonably calculated to lead to the discovery of admissible evidence in this proceeding. They ask about FPL’s *position* on NEIL’s internal policies concerning the status of non-insured NEIL members with respect to future NEIL distributions. FPL has no authority to impose those positions on NEIL or other NEIL members. NEIL’s management will follow whatever internal policies it believes best, subject to NEIL’s organizing documents and oversight by NEIL’s collective membership as provided in those organizing documents. Accordingly, one can only speculate as to how, if at all, FPL’s positions on internal NEIL policies will affect NEIL’s management decisions. And then one would have to speculate further on how NEIL’s management decisions might affect FPL’s entitlement to future

distributions from NEIL member accounts. Finally, one would have to speculate yet again on how such distributions might affect FPL's test year results, which is the proper focus of this proceeding. That is far too tenuous a connection to justify discovery.

Interrogatory No. 83. FPL objects that this interrogatory seeks information that is irrelevant and not reasonably calculated to lead to the discovery of admissible evidence in this proceeding. It asks about how FPL's member account balance with Nuclear Mutual Limited ("NML") was consolidated with FPL's NEIL member account when NML and NEIL merged. FPL can see no possible relevance of specifics about that consolidation to FPL's 2002 test year results, which is the proper focus of this proceeding. The member account consolidation was performed by NEIL, and the results of the consolidation are already reflected in FPL's member account balance. FPL will be providing information on its NEIL Capitalized Account Balance for 1998 to present in response to Interrogatory No. 79.

Interrogatory Nos. 85-139 (the "Witness Interrogatories"). In contrast to Interrogatory Nos. 75-84, which appear under a heading for "General Questions," the Witness Interrogatories all appear under headings that reference the direct testimony and exhibits of various FPL witnesses. Those headings, together with the nature of the Witness Interrogatories, suggest that the SFHHA intends them as discovery into the basis and support for the FPL witnesses' testimony. They will be answered from that perspective. In many instances, the Witness Interrogatories seek analyses that have not been performed, or data that have not been collected, in connection with the preparation of the FPL witnesses' testimony. To the extent that they seek such analyses or data, FPL objects to the Witness Interrogatories as beyond the scope of proper discovery from witnesses. FPL will respond to the Witness Interrogatories based on analyses

performed, and data collected, in connection with the preparation of the FPL witnesses' testimony.

Many of the Witness Interrogatories ask for "workpapers" (or similar documentation) supporting witnesses' testimony or analyses performed in connection with the testimony. This is more in the nature of a request for production than an interrogatory. Including copies of voluminous workpapers as part of the responses to the SFHHA's interrogatories that FPL serves would be burdensome. FPL will produce documents responsive to such interrogatories at the place and time that documents responsive to the requests for documents in the SFHHA Eighth Request are produced.

Interrogatory No. 129. FPL objects that this interrogatory seeks information that is irrelevant and not reasonably calculated to lead to the discovery of admissible evidence in this proceeding. It further objects that responding to the interrogatory would be unduly burdensome. The interrogatory seeks copies of RFPs issued by FPL to meet its reserve margin requirements and the responses that FPL received to those RFPs. FPL has issued two RFPs that would potentially be responsive to this interrogatory, but neither of them is properly the subject of discovery in this proceeding.

In 1989, FPL issued an RFP for alternatives to its planned purchase of a share of the Scherer Unit 4 coal-fired plant from Georgia Power Company. FPL concluded that none of the responses to the 1989 RFP was as favorable as the Scherer Unit 4 purchase, which the Commission approved in Order No. 24165 in Docket No. 900796-EI. FPL then proceeded with the Scherer Unit 4 purchase, consistent with the Commission's approval. Scherer Unit 4 costs are included in FPL's 2002 test year rate base and expenses; no costs associated with the 1989 RFP are included in the test year. There is nothing further to consider about the 1989 RFP in this

proceeding. Locating and producing the 1989 RFP and responses thereto would be burdensome to FPL and would add no relevant information to this proceeding.

In 2001, FPL issued an RFP for capacity that would help meet its reserve margin requirements in the 2005/2006 timeframe, and it received numerous responses to that RFP. Because the 2001 RFP is for generation capacity in the 2005/2006 timeframe, FPL's 2002 test year includes nothing in rate base or expenses for that capacity. Therefore, the 2001 RFP is not relevant to this proceeding. Producing the documents that the SFHHA seeks would be burdensome, both because of the volume of those documents and the need to address confidentiality restrictions that affect many of them. As with the 1989 RFP, this burden would not be offset by any benefit in the form of adding relevant information to this proceeding.

Interrogatory No. 137. FPL objects that this interrogatory seeks information that is irrelevant and not reasonably calculated to lead to the discovery of admissible evidence in this proceeding. The interrogatory asks for "offers FPL has received for it to purchase *energy* from independent power projects ...." (Emphasis added). FPL recovers the energy cost of purchased power through adjustment clauses, not base rates. Therefore, information on energy purchases would not be relevant to this proceeding, which is a review of FPL's base rates. Moreover, the interrogatory asks about all energy-purchase offers FPL has received since 1985. Energy purchases, by their nature, cannot satisfy capacity requirements. Therefore, the requested information would shed no light on FPL's power-supply planning decisions.

Interrogatory No. 139. This interrogatory asks FPL to state its anticipated reserve margin for the period from 2002 through 2110. FPL expects that this last number is a typographical error; it cannot imagine that the SFHHA would presume to ask for reserve-margin projections covering more than a century. FPL assumes that the SFHHA intended to write "2010" and will

respond for the period 2002 through 2010 unless and until the SFHHA provides clarification otherwise.

Request for Documents Nos. 66 and 67. FPL objects that these requests for documents are overbroad and that responding to their full scope would be unduly burdensome. The seek essentially every scrap of paper related to FPL's dealings with NEIL. And, in the case of Request for Production No. 67, the request not even limited to a finite time period. FPL's dealings with NEIL are relevant to this proceeding, if at all, only to the extent that they relate to FPL's payment of premiums to, and receipt of credits from, NEIL. FPL will respond to Request for Documents Nos. 66 and 67 by providing copies of its current NEIL policies, as well as invoices and correspondence since January 1, 1998, related to the payment of NEIL premiums and receipt of NEIL credits.

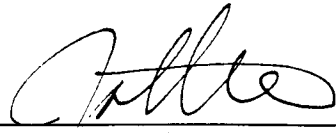
Request for Documents No. 69. This request for documents is in a section with a heading that reads "Re: Testimony and Exhibits of John G. Shearman." However, the request does not appear to be limited to Mr. Shearman. FPL will respond to Request to Produce No. 69 with respect to all FPL witnesses who have prefiled testimony.

Request for Documents No. 85. This request for documents seeks "documentation" for each computer model referenced in the testimony of Steven Harris. Neither FPL nor Mr. Harris knows what the SFHHA means by "documentation" of computer models. The principal model relied upon by Mr. Harris is proprietary to him. Certain information about the model (*e.g.*, the model's computer code, and its operating instructions) could be produced only under a very tightly controlled confidentiality arrangement; other information might not require confidentiality protection at all. Before FPL can begin determining how to respond to Request for Documents No. 85, the SFHHA must clarify specifically what sort of information it seeks.

Respectfully submitted.

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