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March 8, 2002

**-VIA HAND DELIVERY-**

Ms. Blanca S. Bayó, Director  
Division of the Commission Clerk and  
Administrative Services  
Florida Public Service Commission  
2540 Shumard Oak Blvd.  
Tallahassee, FL 32399-0850

**Re: Docket No. 011605-EI**

Dear Ms. Bayó:

Enclosed for filing on behalf of Florida Power & Light Company ("FPL") are the original and seven (7) copies of FPL's Response to Reliant Energy Power Generation, Inc.'s Petition to Intervene, together with a diskette containing the electronic version of same. The enclosed diskette is HD density, the operating system is Windows 2000, and the word processing software in which the document appears is Word 2000.

If there are any questions regarding this transmittal, please contact me at 305-577-2939.

Very truly yours,

*Elizabeth C. Daley Esq.*  
John T. Butler, P.A.

AUS  
CAF  
CMP  
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CTR  
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Enclosure  
cc: Counsel for Parties of Record (w/enclosures)  
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DOCUMENT NUMBER-DATE  
02749 MAR-88

**BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

|                                       |                      |
|---------------------------------------|----------------------|
| In Re: Review of investor-owned )     |                      |
| electric utilities' risk management ) | DOCKET NO. 011605-EI |
| policies and procedures. )            | Filed: March 8, 2002 |
| _____ )                               |                      |

**FLORIDA POWER & LIGHT COMPANY'S RESPONSE TO  
RELIANT ENERGY POWER GENERATION, INC.'s PETITION TO INTERVENE**

Florida Power & Light Company ("FPL"), hereby respectfully responds to the petition to intervene filed by Reliant Energy Power Generation, Inc. ("Reliant Energy"), and states:

1. Reliant Energy alleges in its Petition to Intervene (the "Reliant Petition") that it "is a developer of independent power projects throughout the United States, including Florida ... [whose] substantial interests would be affected by a decision that assesses or purports to characterize the advantages and risks associated with purchases of *wholesale power*." Reliant Petition at 2. Reliant Energy also alleges that it is "a retail customer of Florida Power Corporation ... [whose] substantial interests will be affected by a decision that governs the manner in which Florida Power manages risks borne by Reliant and other retail ratepayers." *Id.*

2. To the extent that Reliant Energy seeks to intervene in this docket as a retail customer of Florida Power Corporation in order to protect its interests as such, FPL has no objection. However, a review of the Reliant Petition gives no reason for confidence that this is Reliant Energy's intent. Paragraph 8 of the Reliant Petition tips Reliant Energy's hand: "unless the perspective of wholesale providers is represented in this proceeding, the Commission will not receive a full picture of the important considerations that bear on the issues." Reliant Energy clearly intends to represent the "perspective of wholesale providers," and the majority of the

Reliant Petition is simply an advocate's brief on the merits of forcing utilities to rely more heavily upon power purchased from such providers.

3. In *Agrico Chemical Co. v. Department of Environmental Regulation*, 406 So. 2d 478 (Fla. 2d DCA 1981) the First District Court of Appeal established the generally applicable test for standing to participate in administrative proceedings:

We believe that before one can be considered to have a substantial interest in the outcome of the proceeding he must show (1) that he will suffer injury in fact which is of sufficient immediacy to entitle him to a section 120.57 hearing, and (2) that his substantial injury is of a type or nature which the proceeding is designed to protect.

406 So. 2d at 482. The second part of this test is often referred to as the "zone of interest" requirement. It limits standing to those persons that the Legislature intended to protect in the administrative proceeding at issue. *Ameristeel Corp. v. Clark*, 691 So. 2d 473 (Fla. 1997); *Agrico supra*.

4. This proceeding is not intended, and the Commission does not have jurisdiction, to protect the interests of wholesale power providers. To the extent that Reliant is attempting to intervene in this proceeding to protect its interests as a wholesale power provider, it lacks standing to do so. And Reliant Energy should not be permitted to do indirectly what it cannot do directly. The Commission should not allow Reliant Energy's status as a retail customer to be a Trojan horse for improperly introducing the "perspective of wholesale providers" into this proceeding. While the proceeding can and should consider the extent to which purchased power plays a role in risk management plans that utilities use to protect their retail customers, it cannot and should not become a forum on how to protect the interests of those who would sell that power.

WHEREFORE, if Reliant Energy is permitted to intervene in this docket in order to protect its alleged interest as a Florida Power Corporation retail customer, FPL respectfully

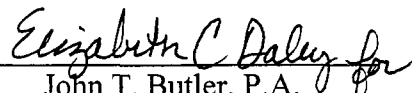
requests that Reliant Energy's participation be limited to issues that relate directly to that interest and not extend to issues related to Reliant Energy's interest as a wholesale power provider.

Respectfully submitted,

Florida Power & Light Company

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By:   
John T. Butler, P.A.  
Florida Bar No. 283479

**CERTIFICATE OF SERVICE**

I certify that a copy of Florida Power & Light Company's Response to Reliant Energy Power Generation, Inc.'s Petition to Intervene was served by U.S. mail this 8<sup>th</sup> day of March 2002 to the following persons:

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