

ORIGINAL

McWHIRTER REEVES
ATTORNEYS AT LAW

TAMPA OFFICE:
400 NORTH TAMPA STREET, SUITE 2450
TAMPA, FLORIDA 33602
P. O. BOX 3350 TAMPA, FL 33601-3350
(813) 224-0866 (813) 221-1854 FAX

PLEASE REPLY TO:

TALLAHASSEE

TALLAHASSEE OFFICE:
117 SOUTH GADSDEN
TALLAHASSEE, FLORIDA 32301
(850) 222-2525
(850) 222-5606 FAX

May 17, 2002

VIA HAND DELIVERY

Blanca S. Bayo, Director
Division of Records and Reporting
Betty Easley Conference Center
4075 Esplanade Way
Tallahassee, Florida 32399-0870

RECEIVED FPSC
02 MAY 17 PM 3:57
COMMISSION
CLERK

Re: Docket No.: 020175

Dear Ms. Bayo:

On behalf of Reliant Energy Power Generation, Inc., enclosed for filing and distribution are the original and 15 copies of the following:

- ▶ Amended Complaint of Reliant Energy Power Generation, Inc. Against Florida Power and Light Company and, 05326-02
- ▶ Reliant's Motion for Leave to Amend Complaint Against FPL. 05325-02

Please acknowledge receipt of the above on the extra copy of each and return the

stamped copies to me. Thank you for your assistance.

AUS _____
 CAF _____
 CMP _____
 COM 5
 CTR _____
 ECR _____
 GCL _____
 OPC _____
 MMS _____
 SEC 1
 OTH _____

Sincerely,

Joe McGlothlin

Joseph A. McGlothlin

JAM/bae
Enclosure

RECEIVED & FILED
M. Bockard
FPSC-BUREAU OF RECORDS

DOCUMENT NUMBER: 05325
DATE: MAY 17 2002
FPSC-COMMISSION CLERK

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Complaint of Reliant Energy
Power Generation, Inc. Against
Florida Power and Light Company

Docket No. 020175
Filed: May 17, 2002

RELIANT'S MOTION FOR LEAVE TO AMEND COMPLAINT AGAINST FPL

Pursuant to Rules 28-106.202 and 28-106.204, Florida Administrative Code, Reliant Energy Power Generation, Inc. ("Reliant"), through its undersigned counsel, submits this Motion for Leave to Amend the original complaint filed in this docket on February 28, 2002. In support thereof, Reliant states:

1. On February 28, 2002, Reliant filed a complaint alleging that Florida Power & Light Company (FPL) violated Rule 25-22.082, Florida Administrative Code in the manner in which it formulated and processed its August 2001 RFP.

2. FPL filed a Motion to Dismiss Reliant's Complaint on March 20, 2002, to which Reliant responded on March 27, 2002.

3. On March 22, 2002, FPL submitted separate petitions for determinations of need for two proposed units, Martin Unit 8 and Manatee Unit 3. Docket Nos. 020262-EI and 020263-EI were opened to process the petitions.

4. On April 26, 2002, Commission Order No. PSC-02-0571-PCO-EI granted FPL's Emergency Motion to Hold Proceedings in Abeyance in the need determination dockets. The stated purpose of FPL's emergency pleading was to allow FPL to issue a Supplemental RFP that would address or eliminate aspects of the August 2001 RFP that had been the subject of criticism. FPL issued a revised RFP on the same day.

5. Subsequent to issuing the April 26 Supplemental RFP, on May 14, 2002, FPL filed an Amended Motion to Dismiss in this docket, including as additional grounds that the

issuance of the revised RFP had rendered moot the issues raised by Reliant's Complaint.

6. Upon review, Reliant has determined that the revised RFP addresses some, but not all, of the allegations in Reliant's original complaint, and incorporates a provision that warrants inclusion in this proceeding. Accordingly, Reliant seeks leave to amend its Complaint to address aspects of the revised RFP that FPL issued on April 26, 2002.

7. This Commission has recognized that "[t]he longstanding policy in Florida, and of this Commission in particular, is to allow pleadings to be freely amended so that disputes may be resolved on their merits."¹

8. This Commission "has broad discretion to allow amendment of pleadings" where the privilege has not been abused and where judicial economy would be served.²

9. The purpose of this Amended Complaint is to focus the issues in this dispute so that the merits may be considered properly and efficiently. The notion of judicial economy necessitates that the pleadings be amended in light of the April 26 RFP.

10. Pursuant to Rule 28-106.204, the undersigned counsel has contacted counsel for FPL regarding this motion. Counsel for FPL stated that FPL opposes this motion based on FPL's view that Reliant should withdraw its complaint and raise any objections to the April 26 RFP in a new complaint or in the determination of need docket.

WHEREFORE, pursuant to Rules 28-106.202 and 28-106.204, Reliant requests the Pre-

¹In re: Petition by AT&T Communications of the Southern States, Inc., TCG South Florida, and MediaOne Florida Telecommunications, Inc. for structural separation of BellSouth Telecommunications, Inc. into two distinct wholesale and retail corporate subsidiaries, Docket No. 010345-TP; Order No. PSC-01-1615-PCO-TP, August 8, 2001, at 3.

²In re: Petition by Florida Digital Network, Inc. for arbitration of certain terms and conditions of proposed interconnection and resale agreement with BellSouth Telecommunications, Inc. under the Telecommunications Act of 1996, Docket No. 010098-TP, Order No. PSC-01-1168-PCO-TP, May 22, 2001

Hearing Officer to issue an order allowing Reliant to submit its Amended Complaint (attached) against Florida Power and Light Company in Docket 020175-EI.



Joseph A. McGlothlin
McWhirter, Reeves, McGlothlin, Davidson, Decker,
Kaufman, Arnold & Steen, P.A.
117 South Gadsden Street
Tallahassee, Florida 32301
Telephone: (850) 222-2525
Facsimile: (850) 222-5606
jmcglothlin@mac-law.com

Michael G. Briggs
Reliant Energy, Inc.
801 Pennsylvania Avenue, Suite 620
Washington DC 20004
Telephone: (202) 783-7220
Facsimile: (202) 783-8127
mbriggs@reliant.com

Attorneys for Reliant Energy Power Generation, Inc.

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Reliant's Motion for Leave to Amend Complaint Against FPL, was on this 17th day of May, 2002, served via (*) Hand delivery and U.S. Mail to the following:

(*)Martha Brown
Florida Public Service Commission
Division of Legal Services
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850

Suzanne Brownless
Suzanne Brownless, P.A.
1311-B Paul Russell Road, #201
Tallahassee, Florida 32301

(*)Lawrence Harris
Florida Public Service Commission
Division of Legal Services
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850

Bruce May/Karen Walker
Holland & Knight
315 South Calhoun Street
Suite 600
Tallahassee, Florida 32301

(*)Charles A. Guyton
Steel, Hector & Davis
215 S. Monroe Street
Tallahassee, FL 32301

Gabriel E. Nieto
Steel Law Firm
200 South Biscayne Blvd, Suite 4000
Miami, Florida 33131-2398

John Moyle Jr.
Moyle, Flanigan, Katz, Kolins et al.
The Perkins House
118 North Gadsden Street
Tallahassee Florida 32301

Robert S. Wright
Landers Law Firm
310 West College Avenue
Tallahassee, Florida 32302


Joseph A. McGlothlin