

ORIGINAL

July 30, 2002

**-VIA FEDERAL EXPRESS-**

Blanca S. Bayó, Director  
Records and Reporting  
Florida Public Service Commission  
4075 Esplanade Way, Room 110  
Tallahassee, Florida 32399-0850

**Re: Docket Nos. 020262-EI and 020263-EI**

Dear Ms. Bayó:

Enclosed for filing on behalf of Florida Power & Light Company in Docket Nos. 020262-EI and 020263-EI are the original and seven copies of the following:

- Florida Power & Light Company's Objections to and Requests for Clarification of CPV Cana, Ltd.'s Second Request for Production of Documents (Nos. 19-55); and
- Florida Power & Light Company's Objections to and Requests for Clarification of CPV Gulfcoast, Ltd.'s First Set of Interrogatories (Nos. 1-19).

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I have also provided a diskette containing these documents. If there are any questions regarding this filing, please contact me at 305-577-2859.

Very truly yours,



Robert L. Powell, Jr., Esq.  
Steel Hector & Davis, LLP

Enclosures

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DOCUMENT NUMBER-DATE  
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FPSC-COMMISSION CLERK

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition of Florida Power & Light )  
Company for a determination of need for )  
a power plant proposed to be located )  
in Martin County )  
\_\_\_\_\_ )  
Docket No. 020262-EI

In re: Petition of Florida Power & Light )  
Company for a determination of need for )  
a power plant proposed to be located )  
in Manatee County )  
\_\_\_\_\_ )  
Docket No. 020263-EI  
Dated: July 29, 2002

FLORIDA POWER & LIGHT COMPANY'S  
OBJECTIONS TO AND REQUESTS FOR CLARIFICATION  
OF CPV CANA, LTD.'S SECOND REQUEST FOR  
PRODUCTION OF DOCUMENTS (NOS. 19-55)

Florida Power & Light Company ("FPL") hereby submits the following objections to and requests for clarification of CPV Cana, Ltd.'s ("CPV Cana's") Second Request for Production of Documents ("CPV Cana's Second Set").

**I. Preliminary Nature of These Objections**

The objections stated herein are preliminary in nature and are made at this time consistent with procedural Order PSC-02-0992-PCO-EI of the Florida Public Service Commission ("Commission"), which requires a respondent to raise objections or requests for clarification 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.

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## **II. General Objections**

FPL objects to each and every one of the 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 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 make a final determination of whether the discovery requests call for the disclosure of confidential information. However, if it determines that any of the discovery requests would require the disclosure of confidential information, FPL 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 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 CPV Cana's Second Set to the extent that it calls for the creation of information, rather than the reporting of presently existing information, as purporting to expand FPL's obligation under the law.

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 CPV Cana through normal procedures.

Numerous of the requests for production of documents in CPV Cana's Second Set are not expressly limited to data or analyses performed in connection with the evaluation of the Martin and Manatee projects that are the subjects of these dockets. FPL assumes that, unless expressly stated to the contrary, the requests for production of documents in CPV Cana's Second Set are intended to refer to data or analyses related to those projects and objects to the extent that any such discovery requests are not so limited, on the grounds that they would be overly broad, irrelevant and burdensome.

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 No. 30. FPL objects to this request because it is overly broad and unduly burdensome and seeks documents that are irrelevant to any issue in the case. FPL will provide all documents (subject to all objections) reflecting correspondence between FPL and Salim J. Jabbour to the extent that such correspondence is related to the RFP as defined in CPV Cana's Second Set.

Request for Production No. 34. FPL objects to this request because the letter referred to in the request contains detailed information about ongoing confidential negotiations with Gulfstream for the long-term supply of natural gas, Gulfstream requires that this information be kept confidential, and the disclosure of information would harm FPL's customers. FPL can only secure favorable terms and conditions for the long-term supply of natural gas if the vendors with whom it negotiates are confident that the terms and conditions they offer will not become public knowledge and then used against them in subsequent negotiations with other prospective customers. The parties to this docket, including those that have signed the nondisclosure agreement, are prospective customers for the long-term supply of natural gas to which the subject letter of this request refers. Disclosure of this information would harm FPL's customers because if disclosed, FPL would not be able to negotiate as good a price for FPL's customers. Because of these concerns, FPL is not in a position to provide an unredacted copy of the letter subject to this request, but will provide CPV Cana a partially redacted copy of the letter.

Request for Production No. 38. FPL objects to this request to the extent that it requires the production of confidential documents that detail the pricing and negotiated pay schedule of combustion and steam turbines and HRSGs that FPL is required by contract to maintain as confidential. FPL's vendors require that the terms and conditions of its combustion and steam turbine and HRSG contracts be kept confidential. FPL can only secure favorable terms and conditions for its combustion and steam turbines and HRSG contracts if the vendors with whom it negotiates are confident that the terms and conditions they are will not become public knowledge and then be used against them in subsequent negotiations with other prospective customers. The parties to this docket, including those that have signed the nondisclosure agreement, may be prospective customers for the types of combustion and steam turbines and

HRSGs detailed in documents responsive to this request. Because of these concerns, FPL is not in a position to provide copies of these confidential documents subject to this request, but will contact counsel for CPV Cana and the vendors to discuss further the form that a mutually agreeable response could take.

FPL also objects to this request to the extent that it requests documents containing confidential proprietary tools unique to FPL to manage and budget projects. These tools are protected trade secrets of FPL.

FPL also objects to this request to the extent that it requests confidential documents containing heat rate projections that if disclosed, would harm FPL's ability to negotiate short-term purchase power agreements beneficial to FPL's customers.

Request for Production No. 50. FPL objects to this request to the extent it seeks to obtain computer models that are not FPL's property or in FPL's control and are subject to a licensing agreement, which would be breached if FPL complied with this request. FPL also objects to this request to the extent that the computer models are in CPV Cana's possession or readily accessible.

FPL used Power System Simulator ("PSS/E") software, version 26 and TFLAN Version 8.1 software to perform transmission load-flow analysis in connection with the RFP process. That software is the property of Power Technologies Incorporated ("PTI"). FPL licenses the software from PTI and the licensing agreement restricts FPL's ability to share the PSS/E software with non-licensees. FPL objects that it cannot comply with this request as to the PTI software without breaching its contractual obligations to PTI.

The PTI software is widely distributed in the industry and accessible to CPV Cana. CPV Cana can obtain a limited hourly version of the software by calling PTI at (518) 395-5075 and

paying a licensing fee of approximately \$3,400 for 200 hours. FPL objects to this request because CPV Cana is seeking documents that are readily available to CPV Cana.

FPL used the EGEAS software to evaluate the RFP and Supplemental RFP proposals. The EGEAS software is the property of the Electric Power Research Institute, Inc. ("EPRI"), which FPL licenses from EPRI. FPL's license agreement with EPRI limits FPL's ability to share the EGEAS software with non-licensees. FPL objects that it cannot comply with these Requests consistent with its contractual obligations to EPRI.

The EGEAS software is readily accessible to CPV Cana. CPV Cana can lease the software for approximately \$37,000 by contacting Bruce Braga of EPRI at (650) 855-2854. FPL objects to this request because CPV Cana is seeking documents that are readily available to CPV Cana.

FPL used the Sedway Consulting Response Surface Model ("RSM") to evaluate the RFP and Supplemental RFP proposals. The RSM is proprietary to Sedway Consulting and is not in the possession of FPL. Sedway Consulting will release a copy of its model upon execution of a nondisclosure agreement satisfactory to Sedway Consulting.

Respectfully submitted,

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By: \_\_\_\_\_



Robert L. Powell, Jr.  
Florida Bar No. 0195464

**CERTIFICATE OF SERVICE**  
**Docket Nos. 020262-EI and 020263-EI**

I HEREBY CERTIFY that a true and correct copy of Florida Power & Light Company's Objections to and Request for Clarification of CPV Cana's Second Request for Production of Documents (Nos. 19-55) has been furnished by e-mail (\*) and United States Mail this 29th day of July, 2002 to the following:

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