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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition to Determine Need)
For an Electrical Power Plant in)
Martin County by Florida Power &)
Light Company.)

Docket No. 020263

In re: Petition to Determine Need)
For an Electrical Power Plant in)
Manatee County by Florida Power &)
Light Company.)

Docket No. 020263-EI

Filed August 5, 2002

**CALPINE ENERGY SERVICES, L.P.'S OBJECTIONS
TO FLORIDA POWER & LIGHT COMPANY'S FIRST
SET OF INTERROGATORIES (NOS. 1-38)**

Intervenor, Calpine Energy Services, L.P. ("Calpine"), pursuant to the Commission's Order establishing procedure, issued on July 23, 2002, hereby respectfully submits its objections to Florida Power & Light Company's ("FPL") First Set of Interrogatories (Nos. 1-38), which were served on Calpine on July 26, 2002.

GENERAL OBJECTIONS

Calpine objects to FPL's First Set of Interrogatories on the grounds set forth in paragraphs A-G below. Each of Calpine's responses will be subject to and qualified by these general objections.

A. As the petitioner in this need determination proceeding, FPL alone carries the affirmative burden of demonstrating that its proposed projects will satisfy the statutory need criteria set forth in Section 403.519, Florida Statutes. FPL did not identify Calpine as a primarily-affected

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utility in this proceeding pursuant to Rule 25-22.081, F.A.C. Moreover, FPL did not select Calpine as a finalist on its short list in this proceeding and thus did not conduct any negotiations with Calpine as contemplated by Rule 25-22.082, F.A.C. As an intervenor, Calpine's only burden in this proceeding is to demonstrate that it was a participant in FPL's selection process, a fact that FPL has acknowledged. See Rule 25-22.082(8), F.A.C. Nonetheless, FPL has now served extensive and unduly burdensome discovery requests on Calpine including these 38 numbered interrogatories plus numerous subparts. FPL's extensive discovery requests are nothing more than a thinly-veiled effort to harass and punish Calpine for intervening in this proceeding. FPL is clearly attempting to deflect the focus of these need determinations from the requisite review of FPL's projects to a wholly irrelevant review of Calpine. Calpine objects to all such discovery requests as irrelevant, immaterial, argumentative, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence.

B. Calpine objects to any interrogatory that calls for the creation of information as opposed to the reporting of presently existing information as an improper expansion of Calpine's obligations under the law FPL invokes.

C. Calpine objects to any interrogatory 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 to these interrogatories or is later determined to be applicable for any reason. Calpine in no way intends to waive any such privilege or protection.

D. Calpine objects to any interrogatory that requires the identification of "all" or "each" as it cannot give assurances, even after a good faith and reasonably diligent attempt, that "all" or "each" responsive document will be identified. Indeed, it may well be impossible to assure compliance even with the exercise of reasonable diligence. Calpine is a large corporation with employees located in different states in many different locations. In the course of its business, Calpine creates numerous documents that are not subject to any regulatory 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 Calpine's responses to these interrogatories. Calpine's responses will provide all responsive information that Calpine obtains through a reasonable and diligent search conducted in connection with these interrogatories. To the extent that the discovery requests purport to require more of Calpine, Calpine objects on the grounds that compliance would impose an undue burden and expense on Calpine.

E. Calpine objects to any interrogatory that calls for confidential, proprietary business information and/or the compilation of information that is considered confidential, proprietary business information. FPL and its affiliates are direct competitors of Calpine's and FPL should not be allowed to use these proceedings as a fishing expedition to gain access to otherwise highly sensitive, confidential, proprietary business information that FPL will be able to use to its competitive advantage.

F. Calpine objects to providing information to the extent that such information is already in the public record before the Florida Public Service Commission or other public agencies and available to FPL through normal procedures.

G. Calpine objects to any interrogatories that seek information about, or in the possession of, Calpine's parent or affiliated companies as irrelevant and immaterial to this proceeding. Calpine is the intervenor in this proceeding, not its parent corporation or any affiliate, and responses will be provided for Calpine only.

SPECIFIC OBJECTIONS

Calpine makes the following specific objections to FPL's First Set of Interrogatories. Calpine's specific objections are numbered to correspond with the number of FPL's interrogatories.

2. Calpine objects to this interrogatory on the grounds

that it is beyond the scope of discovery permitted of testifying experts by the Florida Rules of Civil Procedure ("F.R.C.P."). Rule 1.280(b)(4)(A), F.R.C.P., which is made specifically applicable to this proceeding by Uniform Rule 28-106.206, Florida Administrative Code, provides as follows:

(4) Trial Preparation: Experts. Discovery of facts known and opinions held by experts, otherwise discoverable under the provisions of subdivision (b)(1) of this rule and acquired or developed in anticipation of litigation or for trial, may be obtained only as follows:

(A)(i) By interrogatories a party may require any other party to identify each person whom the other party expects to call as an expert witness at trial and to state the subject matter on which the expert is expected to testify, and to state the substance of the facts and opinions to which the expert is expected to testify and a summary of the grounds for each opinion.

(ii) Any person disclosed by interrogatories or otherwise as a person expected to be called as an expert witness at trial may be deposed in accordance with rule 1.390 without motion or order of court.

(iii) A party may obtain the following discovery regarding any person disclosed by interrogatories or otherwise as a person expected to be called as an expert witness at trial:

1. The scope of employment in the pending case and the compensation for such service.
2. The expert's general litigation experience, including the percentage of work performed for plaintiffs and defendants.
3. The identity of other cases, within a reasonable time period, in which the expert has testified by deposition or at trial.
4. An approximation of the portion of the

expert's involvement as an expert witness, which may be based on the number of hours, percentage of hours, or percentage of earned income derived from serving as an expert witness; however, the expert shall not be required to disclose his or her earnings as an expert witness or income derived from other services.

An expert may be required to produce financial and business records only under the most unusual or compelling circumstances and may not be compelled to compile or produce nonexistent documents. Upon motion, the court may order further discovery by other means, subject to such restrictions as to scope and other provisions pursuant to subdivision (b)(4)(C) of this rule concerning fees and expenses as the court may deem appropriate.

(Emphasis supplied.) Calpine also objects to this interrogatory on the grounds that it is overbroad. Subject to the preceding objections, Calpine will respond to this interrogatory.

3. Calpine objects to this interrogatory on the grounds that it is overbroad and seeks information not relevant to this proceeding and not reasonably calculated to lead to evidence admissible in this proceeding. Calpine also objects to this interrogatory, as irrelevant, to the extent that this interrogatory seeks information concerning Calpine Corporation; Calpine Corporation is not a party to this proceeding and did not respond to FPL's April 26th RFP. Calpine also objects to this interrogatory because it seeks information that is part of the public record and available to FPL through normal procedures. Further, Calpine objects to this interrogatory because it would place an unreasonable burden on Calpine to compile and organize

responsive information. Lastly, as noted in General Objection A, Calpine objects to this interrogatory because it is an attempt to punish and otherwise harass Calpine for intervening in this proceeding.

4. Calpine objects to this interrogatory on the grounds that it is overbroad and seeks information not relevant to this proceeding and not reasonably calculated to lead to evidence admissible in this proceeding. Calpine also objects to this interrogatory, as irrelevant, to the extent that this interrogatory seeks information concerning Calpine Corporation; Calpine Corporation is not a party to this proceeding and did not respond to FPL's April 26th RFP. Calpine also objects to this interrogatory because it seeks information that is part of the public record and available to FPL through normal procedures. Further, Calpine objects to this interrogatory because it would place an unreasonable burden on Calpine to compile and organize responsive information. Lastly, as noted in General Objection A, Calpine objects to this interrogatory because it is an attempt to punish and otherwise harass Calpine for intervening in this proceeding.

5. Calpine objects to this interrogatory on the grounds that it is vague to the extent that it requires Calpine to determine whether it has been "accused" of failure to meet its contractual allegations. Calpine objects to this interrogatory on the grounds that it seeks information not relevant to this

proceeding and not reasonably calculated to lead to evidence admissible in this proceeding. Calpine also objects to this interrogatory, as irrelevant, to the extent that this interrogatory seeks information concerning Calpine Corporation; Calpine Corporation is not a party to this proceeding and did not respond to FPL's April 26th RFP. Calpine also objects to this interrogatory because it seeks information that is part of the public record and available to FPL through normal procedures. Further, Calpine objects to this interrogatory because it would place an unreasonable burden on Calpine to compile and organize responsive information. Lastly, as noted in General Objection A, Calpine objects to this interrogatory because it is an attempt to punish and otherwise harass Calpine for intervening in this proceeding.

6. Calpine objects to this interrogatory on the grounds that it is vague to the extent that it requires Calpine to determine whether it has been "accused" of failing to meet its contractual obligations. Calpine objects to this interrogatory on the grounds that it seeks information not relevant to this proceeding and not reasonably calculated to lead to evidence admissible in this proceeding. Calpine also objects to this interrogatory, as irrelevant, to the extent that this interrogatory seeks information concerning Calpine Corporation; Calpine Corporation is not a party to this proceeding and did not respond to FPL's April 26th RFP. Calpine also objects to this

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Calpine to compile and organize responsive information. Lastly, as noted in General Objection A, Calpine objects to this interrogatory because it is an attempt to punish and otherwise harass Calpine for intervening in this proceeding.

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38. Calpine objects to this interrogatory on the grounds that it is argumentative. Calpine also objects to this interrogatory because it seeks information not relevant to this

proceeding and not reasonably calculated to lead to evidence
admissible in this proceeding.

Respectfully submitted this 5th day of August, 2002.



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ATTORNEYS FOR CALPINE ENERGY
SERVICES, L.P.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by hand delivery (*), or U.S. Mail, on this 5th day of August 2002, to the following:

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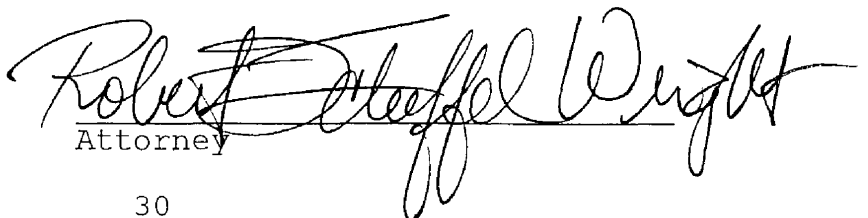
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