

ORIGINAL

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition to determine)
need for an electrical power)
plant in Manatee County by)
Florida Power & Light Company.)

Docket No.: 020262-EI

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In re: Petition to determine)
need for an electrical power)
plant in Martin County by)
Florida Power & Light Company.)

Docket No.: 020263-EI

Filed: August 5, 2002

**CPV GULF COAST, LTD.'S OBJECTIONS
TO FLORIDA POWER & LIGHT COMPANY'S
FIRST REQUEST FOR PRODUCTION OF DOCUMENTS (Nos. 1-26)**

CPV Gulfcoast, Ltd. ("CPV Gulfcoast"), pursuant to Rule 28-106.206, Florida Administrative Code, and Rules 1.340, 1.350 and 1.280(b), Florida Rules of Civil Procedure, hereby submits the following Objections to Florida Power & Light Company's (FPL") First Request for Production of Documents:

INTRODUCTION

The objections stated herein are preliminary in nature and are made at this time for the purpose of complying with the 10-day requirement as set forth in Order No. PSC-02-0992-PCO-EI ("Procedural Order") issued by the Florida Public Service Commission ("Commission") in the

above-referenced dockets. Should additional grounds for objection be discovered as CPV Gulfcoast prepares its responses to the above-referenced requests, CPV Gulfcoast reserves the right to supplement, revise or modify its objections at the time that it serves its responses on FPL. Moreover, should CPV Gulfcoast determine that a Protective Order is necessary with respect to any of the

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material requested by FPL, CPV Gulfcoast reserves the right to file a motion with the Commission seeking such an order at the time that it serves its answers and responses on FPL.

GENERAL OBJECTIONS

CPV Gulfcoast makes the following General Objections to FPL's First Request for Production of Documents ("First PRO"). These general objections apply to each of the individual requests in the First PRO, respectively, and will be incorporated by reference into CPV Gulfcoast's responses and answers when they are served on FPL.

1. CPV Gulfcoast objects to the requests to the extent that such requests seek to impose an obligation on CPV Gulfcoast to respond on behalf of subsidiaries, parent entities, affiliates or other persons that are not parties to this case on the grounds that such requests are overly broad, unduly burdensome, oppressive, and not permitted by applicable discovery rules.

2. CPV Gulfcoast objects to each and every request and instruction to the extent that such request or instruction calls for information that is exempt from discovery by virtue of the attorney-client privilege, work product privilege or other applicable privilege.

3. CPV Gulfcoast objects to each and every request insofar as the request is vague, ambiguous, overly broad, imprecise or utilizes terms that are subject to multiple interpretations but are not properly defined or explained for purposes of these requests. Any responses provided by CPV Gulfcoast to FPL's requests will be provided subject to, and without waiver of, the foregoing objection.

4. CPV Gulfcoast objects to each and every request insofar as the request is not reasonably calculated to lead to the discovery of admissible evidence and is not relevant to the

subject matter of this action. CPV Gulfcoast will attempt to note in its responses each instance where this objection applies.

5. CPV Gulfcoast objects to FPL's discovery requests, instructions and definitions, insofar as they seek to impose obligations on CPV Gulfcoast that exceed the requirements of the Florida Rules of Civil Procedure or Florida law.

6. CPV Gulfcoast objects to providing information to the extent that such information is already in the public record before the Commission, or elsewhere. CPV Gulfcoast also objects to the extent that the documents requested have already been provided to FPL.

7. CPV Gulfcoast objects to each and every request, insofar as it is unduly burdensome, expensive, oppressive or excessively time consuming as written.

8. CPV Gulfcoast objects to each and every request to the extent that the information requested constitutes "trade secrets" which are privileged pursuant to Section 90.506, Florida Statutes. To the extent that FPL requests proprietary confidential business information which is not subject to the "trade secrets" privilege, CPV Gulfcoast may make such information available to counsel for FPL pursuant to an appropriate Protective Agreement, subject to any other general or specific objections contained herein.

9. CPV Gulfcoast objects to the nature of information sought by FPL on the following grounds: FPL filed Petitions for Need in these cases. Consequently, FPL has the affirmative burden of proving that its proposed projects will satisfy the statutory need criteria set forth in Section 403.519, Florida Statutes. FPL did not identify CPV Gulfcoast as a primarily-affected utility in this proceeding pursuant to Section 25-22.081, F.A.C. FPL did not short list or negotiate with CPV Gulfcoast. As an intervenor, CPV Gulfcoast must show that it was a participant in FPL's selection

process. See Rule 25-22.082(8), F.A.C. Nevertheless, FPL has served extensive discovery on CPV Gulfcoast, most of which is irrelevant, immaterial, argumentative, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence. Put simply, it is FPL's need case and selection process that is at issue, not CPV Gulfcoast's. To the extent that FPL somehow contends it needs CPV Gulfcoast's sensitive financial information to judge CPV Gulfcoast's ability to perform, now, after the fact, it ignores the RFP's requirement of certain completion security terms.

SPECIFIC OBJECTIONS: FIRST POD

In addition to the foregoing General Objections, CPV Gulfcoast raises the following Specific Objections to the following individual interrogatories in the First POD:

2. Please provide copies of all documents regarding CPV's participation in FPL's August 2001 RFP and FPL's April 2002 Supplemental RFP.

Objection: Overly broad, burdensome, privileged, and ambiguous.

4. Please provide copies of all documents, analyses and reports supporting or otherwise addressing the firmness of CPV's proposal submitted to FPL's Supplemental RFP.

Objection: Ambiguous and unclear regarding "firmness."

5. Please provide all documents that relate to CPV's Articles of Incorporation, Board of Directors Meeting Minutes, Minutes of any Committee Meetings, Shareholder Agreements, and Corporate Resolutions for the last three years.

Objection: Compound, irrelevant, immaterial, overly broad, burdensome, and not likely to lead to the discovery of admissible evidence. This information is highly confidential business information, similar to information FPL has refused to provide on similar grounds. Moreover, as

FPL and FPL Energy are competitors of CPV Gulfcoast's, this information should not be subject to disclosure, particularly to the extent that such information involves trade secrets or other proprietary information.

6. Please provide CPV's financial statements, tax returns, and balance sheets for the last three years.

Objection: Compound, irrelevant, immaterial, overly broad, burdensome, and not likely to lead to the discovery of admissible evidence. This information is highly confidential business information, similar to information FPL has refused to provide on similar grounds. Moreover, as FPL and FPL Energy are competitors of CPV Gulfcoast's, this information should not be subject to disclosure, particularly to the extent that such information involves trade secrets or other proprietary information.

7. Please provide all documents that relate to any state or federal administrative or criminal inquiry or investigation of CPV initiated in the last three years or which CPV has been notified of an intent to initiate such inquiry or investigation.

Objection: Compound, irrelevant, immaterial, overly broad, burdensome, and not likely to lead to the discovery of admissible evidence. This information is highly confidential business information, similar to information FPL has refused to provide on similar grounds. Moreover, as FPL and FPL Energy are competitors of CPV Gulfcoast's, this information should not be subject to disclosure, particularly to the extent that such information involves trade secrets or other proprietary information.

8. Please provide all charts, tables and/or graphs that describe or depict CPV's business or corporate structure, or affiliations during the last three years, including but not

limited to, organizational charts and tables showing the relationship among CPV's affiliates and subsidiaries.

Objection: Compound, irrelevant, immaterial, overly broad, burdensome, and not likely to lead to the discovery of admissible evidence. This information has already been supplied to FPL in response to its RFP. Moreover, as FPL and FPL Energy are competitors of CPV Gulfcoast's, this information should not be subject to disclosure, particularly to the extent that such information involves trade secrets or other proprietary information.

9. Please provide all documents that relate to any promissory notes or any other documents evidencing or reflecting CPV's debt.

Objection: Compound, irrelevant, immaterial, overly broad, burdensome, and not likely to lead to the discovery of admissible evidence. This information is highly confidential business information, similar to information FPL has refused to provide on similar grounds. Moreover, as FPL and FPL Energy are competitors of CPV Gulfcoast's, this information should not be subject to disclosure, particularly to the extent that such information involves trade secrets or other proprietary information.

10. Please provide all documents that relate to CPV's plans for meeting debt service requirements, including but not limited to all documents related to CPV's contingency plan for meeting debt service.

Objection: Compound, irrelevant, immaterial, overly broad, burdensome, and not likely to lead to the discovery of admissible evidence. This information is highly confidential business information, similar to information FPL has refused to provide on similar grounds. Moreover, as FPL and FPL Energy are competitors of CPV Gulfcoast's, this information should not be subject to

disclosure, particularly to the extent that such information involves trade secrets or other proprietary information.

11. Please provide all documents that relate to CPV's contingency plans for meeting debt service requirements if any or all of CPV's construction projects are materially delayed.

Objection: Compound, irrelevant, immaterial, overly broad, burdensome, and not likely to lead to the discovery of admissible evidence. This information is highly confidential business information, similar to information FPL has refused to provide on similar grounds. Moreover, as FPL and FPL Energy are competitors of CPV Gulfcoast's, this information should not be subject to disclosure, particularly to the extent that such information involves trade secrets or other proprietary information.

14. Please provide all documents reviewed or utilized by each of CPV's witnesses in preparation of his or her testimony.

Objection: Over broad, not limited in scope, burdensome; some witnesses CPV may call are adverse, thus making it impractical to respond to this discovery request.

15. Please provide all documents supporting the testimony of each of CPV's witnesses in this proceeding.

Objection: Irrelevant, immaterial, overly broad, and burdensome. This request impinges on the work product privilege.

17. Please provide copies of any documents (complaints, orders, petitions, etc.) initiating administrative or civil proceedings against CPV in the last three years.

Objection: Compound, irrelevant, ambiguous, immaterial, overly broad, burdensome, and not likely to lead to the discovery of admissible evidence.

18. Please provide all notices of default, demands for compliance, performance or other correspondence or documents related to any failure or alleged failure by CPV to perform under a purchase power contract or a contract relating to the development or construction of a power plant in the last three years.

Objection: Compound, irrelevant, ambiguous, immaterial, overly broad, burdensome, and not likely to lead to the discovery of admissible evidence.

19. Please provide all criminal indictments, informations or subpoenas naming as defendants you, or any of your officers or directors (in relation to their official activities and duties), in the last three years.

Objection: Compound, irrelevant, ambiguous, immaterial, overly broad, burdensome, and not likely to lead to the discovery of admissible evidence.

20. Please provide all pro forma analyses performed regarding the CPV Gulfcoast project, assuming the Supplemental RFP proposals submitted by CPV.

Objection: Irrelevant, immaterial, overly broad, ambiguous, burdensome, and not likely to lead to the discovery of admissible evidence. It is unclear what is sought by the use of the words, “assuming the Supplemental RFP proposals submitted by CPV.” This information is highly confidential business information, similar to information FPL has refused to provide on similar grounds. Moreover, as FPL and FPL Energy are competitors of CPV Gulfcoast’s, this information should not be subject to disclosure, particularly to the extent that such information involves trade secrets or other proprietary information.

21. Please provide all reports or submissions to financial analysts or rating agencies regarding CPV in the last two years.

Objection: Compound, irrelevant, immaterial, overly broad, ambiguous, burdensome, and not likely to lead to the discovery of admissible evidence. This information is highly confidential business information, similar to information FPL has refused to provide on similar grounds. Moreover, as FPL and FPL Energy are competitors of CPV Gulfcoast's, this information should not be subject to disclosure, particularly to the extent that such information involves trade secrets or other proprietary information.

22. Please provide the most recently compiled financial statements for the entity that would construct, operate, and/or own the CPV Gulfcoast project if it were constructed.

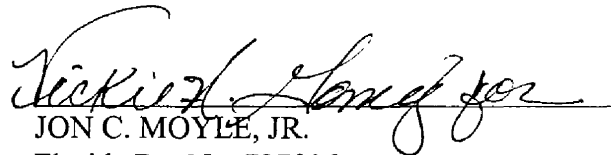
Objection: Compound, irrelevant, immaterial, ambiguous, overly broad, burdensome, and not likely to lead to the discovery of admissible evidence. This information is highly confidential business information similar to information FPL has refused to provide on similar grounds. Moreover, as FPL and FPL Energy are competitors of CPV Gulfcoast's, this information should not be subject to disclosure, particularly to the extent that such information involves trade secrets or other proprietary information.

23. Please provide the most recently compiled financial statements for the entity that would raise the capital necessary to finance and construct the CPV Gulfcoast project.

Objection: Compound, irrelevant, immaterial, ambiguous, overly broad, burdensome, and not likely to lead to the discovery of admissible evidence. This information is highly confidential business information, similar to information FPL has refused to provide on similar grounds. Moreover, as FPL and FPL Energy are competitors of CPV Gulfcoast's, this information should not be subject to disclosure, particularly to the extent that such information involves trade secrets or other proprietary information.

24. Please provide all documents that related to CPV's ability or plans to finance the construction of the CPV Gulfcoast project.

Objection: Compound, irrelevant, immaterial, overly broad, ambiguous, burdensome, and not likely to lead to the discovery of admissible evidence. This information is highly confidential business information, similar to information FPL has refused to provide on similar grounds. Moreover, as FPL and FPL Energy are competitors of CPV Gulfcoast's, this information should not be subject to disclosure, particularly to the extent that such information involves trade secrets or other proprietary information.



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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by U.S. Mail on this 5th day of August, 2002, to those listed below:

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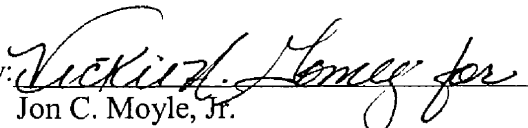
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