

ORIGINAL

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.: 020262-EI

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 9, 2002

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**CPV GULFCOAST, LTD.'S OBJECTIONS  
TO FLORIDA POWER & LIGHT COMPANY'S  
SECOND SET OF INTERROGATORIES (Nos. 35-45)**

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") Second Set of Interrogatories:

**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.

### **GENERAL OBJECTIONS**

CPV Gulfcoast makes the following General Objections to FPL's Second Set of Interrogatories ("Second IRR"). These general objections apply to each of the individual interrogatories in the Second IRR, 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.

7. CPV Gulfcoast objects to each and every request, insofar as it is unduly burdensome, expensive, oppressive or excessively time consuming as written. CPV Gulfcoast also objects to any request for production of documents that calls for the creation of information as opposed to the reporting of presently existing information as an improper expansion of CPV Gulfcoast's obligations under the law FPL invokes.

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: SECOND IRR**

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

**35. Please provide the current forecast for capital spending for CPV, separately identify all current projects under construction where total project costs are estimated to be over \$10 million and identify and list costs incurred to date, costs paid to date, estimated costs to be completed yearly and total costs.**

**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.

**36. Please identify and describe in detail any major asset sales, actual or projected, by CPV, for the year 2001 through the year 2004.**

**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.

**37. Please identify and list any cancellations of significant purchases (over \$10 million) and/or capital construction projects (over \$10 million) made by CPV since January 1, 2000.**

**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.

**38. Please provide a list of CPV's lines of credit at June 30, 2002, including amounts and expiration dates.**

**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.

**39. Please identify and list the amount of receivables on or off CPV's books as of June 30, 2002 resulting from power deliveries made to PG&E during the period of December 2000 through April 2001.**

**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.

**40. Please identify and list the amount of receivables on or off CPV's books as of June 30, 2002 resulting from transactions with Enron or any of its affiliates and/or subsidiaries.**

**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.

**41. Please identify and list all "Operating Lease" commitments with annual**

**payments greater than \$10 million for CPV. Provide a description of each item leased, the term of the lease, and the annual lease payment for the next five 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.

**42. Please identify and list all contingent obligations of CPV greater than \$10 million. Provide a description of the nature of the obligation as well as CPV's best estimate of the amount of the obligation as of June 30, 2002.**

**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.

**43. Please identify and list all contractual arrangements of CPV that contain ratings triggers. Provide the name, the nature of each agreement, a description of the ratings trigger provision and any remedy available to the other party.**

**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.

**44. Please identify and list all transactions evidencing financing arrangements which involve CPV's construction projects, including any current revolving credit arrangements.**

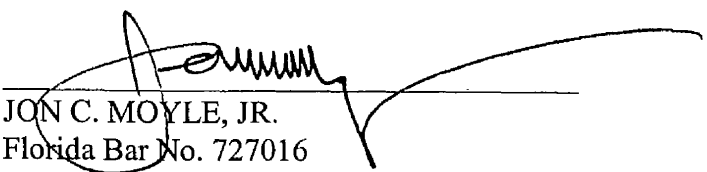
**Objection:** Compound, irrelevant, immaterial, overly broad, burdensome, and not likely to lead to the discovery of admissible evidence. This information is highly confidential business information, similar to information FPL has refused to provide on similar grounds. Moreover, as FPL and FPL Energy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

**45. Please identify and explain any risks to CPV if the completion of any current or future construction project's completion is materially delayed. Please identify any course of action CPV will utilize if it encounters such risk.**

**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



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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 9th day of August, 2002, to those listed below:

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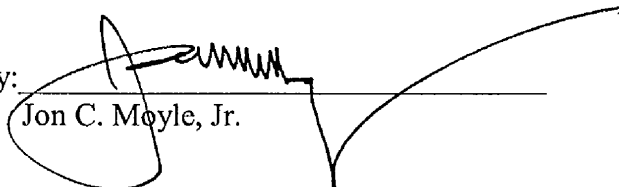
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