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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. 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 12, 2002

CALPINE ENERGY SERVICES, L.P.'S OBJECTIONS
TO FLORIDA POWER & LIGHT COMPANY'S SECOND
REQUEST FOR PRODUCTION OF DOCUMENTS (NOS. 29-46)

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") Second Request for Production of Documents (Nos. 29-46), which were served on Calpine on July 31, 2002.

GENERAL OBJECTIONS

Calpine objects to FPL's Second Request for Production of Documents 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 a current total of 46 requests to produce. FPL's numerous requests to produce 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 requests to produce as irrelevant, immaterial, argumentative, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence.

B. Calpine 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 Calpine's obligations under the law FPL invokes.

C. Calpine objects to any request for production of 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 to these requests for production of documents 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 request for production of documents 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 produced. 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 requests for production of documents. Rather, Calpine will provide all responsive documents that Calpine obtains through a reasonable and diligent search conducted in connection with these requests to produce. To the extent that the requests to produce 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 request to produce 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 documents to the extent that such documents are already in the public record before the Florida Public Service Commission and available to FPL through normal procedures.

G. Calpine objects to any requests for production of documents that seek information about, or in the possession of, Calpine's parent or affiliated companies as irrelevant. 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 Second Request for Production of Documents. Calpine's specific

objections are numbered to correspond with the number of FPL's request for production.

29. Calpine objects to this request to produce 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 request to produce, as irrelevant, to the extent that this request to produce seeks documents 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 request to produce because it seeks information that is part of the public record and available to FPL through normal procedure. Lastly, as noted in General Objection A, Calpine objects to this request to produce because it is an attempt to punish and otherwise harass Calpine for intervening in this proceeding.

30. Calpine objects to this request to produce on the grounds that it seeks documents containing highly sensitive, confidential, proprietary business information that, if disclosed to FPL, would give FPL an improper competitive advantage. In addition, Calpine objects to this request to produce 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 request to produce, as irrelevant, to the extent that this request to produce seeks documents concerning Calpine Corporation; Calpine

Corporation is not a party to this proceeding and did not respond to FPL's April 26th RFP. Lastly, as noted in General Objection A, Calpine objects to this request to produce because it is an attempt to punish and otherwise harass Calpine for intervening in this proceeding.

31. Calpine objects to this request to produce on the grounds that it seeks documents containing highly sensitive, confidential, proprietary business information that, if disclosed to FPL, would give FPL an improper competitive advantage. Calpine also objects to this request to produce on the grounds that it seeks information not relevant to this proceeding and not reasonably calculated to lead to evidence admissible in this proceeding. In addition, as noted in General Objection A, Calpine objects to this request to produce because it is an attempt to punish and otherwise harass Calpine for intervening in this proceeding. Calpine also objects to this request to produce as irrelevant, to the extent that this request to produce seeks documents concerning Calpine Corporation; Calpine Corporation is not a party to this proceeding and did not respond to FPL's April 26th RFP. Lastly, Calpine objects to this request to produce to the extent it requests documents protected by the attorney-client privilege, the work product doctrine, the accountant-client privilege, or any other applicable privilege or protected afforded by law.

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afforded by law.

45. Calpine objects to this request to produce because it seeks information that is part of the public records and available to FPL through normal procedures. Calpine also objects to this request because it is burdensome. Subject to the foregoing objection, Calpine will produce non-privileged documents responsive to this request.

46. Subject to the objections made to each of the interrogatories, Calpine will produce the documents requested.

Respectfully submitted this 12th day of August, 2002.



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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by hand delivery (*), or U.S. Priority Mail, on this 12th day of August 2002, to the following:

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