

FLORIDA PUBLIC SERVICE COMMISSION

VOTE SHEET

SEPTEMBER 3, 2002

RE: Docket No. 010908-EI - Complaint against Florida Power & Light Company regarding placement of power poles and transmission lines by Amy & Jose Gutman, Teresa Badillo, and Jeff Lessera.

ISSUE 1: Should the Commission grant FPL's motion to dismiss the petitioners' request for hearing on Order No. PSC-02-0788-PAA-EI?

RECOMMENDATION: Yes. The Commission should grant FPL's motion to dismiss, with prejudice, the petitioners' request for hearing on the portion of Order No. PSC-02-0788-PAA-EI issued as final agency action. The Commission should grant FPL's motion to dismiss, without prejudice, the petitioners' request for hearing on the portion of Order No. PSC-02-0788-PAA-EI issued as proposed agency action.

**DEFERRED**

COMMISSIONERS ASSIGNED: Full Commission

COMMISSIONERS' SIGNATURES

MAJORITY

DISSENTING

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REMARKS/DISSENTING COMMENTS:

DOCUMENT NUMBER-DATE

09256 SEP-3 2002

FPSC-COMMISSION CLERK

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ISSUE 2: Should the Commission grant the petitioners' request to have their petition for hearing referred to the Division of Administrative Hearings ("DOAH") for an administrative hearing?

RECOMMENDATION: No. The Commission cannot refer to DOAH the petitioners' request for hearing on Part III of Order No. PSC-02-0788-PAA-EI because that portion of the Order was issued as final agency action upon which a hearing cannot be granted. It is within the Commission's discretion to refer to DOAH the petitioners' request for hearing on Part II of the Order, but such a decision would be premature at this time.

ISSUE 3: Should this docket be closed?

RECOMMENDATION: No. This docket should remain open to allow the petitioners to amend their request for hearing consistent with staff's recommendation in Issue 1. If the petitioners do not file an amended petition within 20 days of the issuance of the order resulting from this recommendation, this docket should be administratively closed.