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TALLAHASSEE OFFICE:
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September 25, 2002

VIA HAND DELIVERY

Blanca S. Bayo, Director
Division of Records and Reporting
Betty Easley Conference Center
4075 Esplanade Way
Tallahassee, Florida 32399-0870

RECEIVED-FPSC
02 SEP 25 PM 4:35
COMMISSION
CLERK

Re: Docket Nos.: 020262-EI and 020263-EI

Dear Ms. Bayo:

On behalf of Florida Partnership for Affordable Competitive Energy, enclosed for filing and distribution are the original and 15 copies of the following:

- ▶ Florida Partnership for Affordable Competitive Energy's Motion for Official Recognition

Please acknowledge receipt of the above on the extra copy and return the stamped copy to me. Thank you for your assistance.

Sincerely,

Joseph A. McGlothlin

JAM/mls
Enclosure

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FPSC-COMMISSION CLERK

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition of Florida Power and Light
Company for a Determination of Need
For a power plant proposed to be located
In Martin County

Docket No. 020262-EI

In re: Petition of Florida Power and Light
Company for a Determination of Need
For a power plant proposed to be located
In Manatee County

Docket No. 020263-EI

Filed: September 25, 2002

**FLORIDA PARTNERSHIP FOR AFFORDABLE COMPETITIVE ENERGY'S
MOTION FOR OFFICIAL RECOGNITION**

The Florida Partnership for Affordable Competitive Energy (“PACE”), pursuant to Rules 28-106.204, Florida Administrative Code, and Sections 90.202, 90.203 and 120.569(2)(i), Florida Statutes, hereby requests that the Florida Public Service Commission (the “Commission”) officially recognize the documents listed below and states:

1. PACE requests that the Commission take official recognition of Order No. PSC-99-2507-S-EU issued in Docket No. 981890-EU, *In re: Generic investigation into the aggregate electric utility reserve margins planned for Peninsular Florida* (Attachment “A”). In the past, the Commission has found it appropriate to take official recognition of its own orders. *See In re: Application for transfer of facilities and Certificates Nos. 353-W and 309-S in Lee County from MHC Systems, Inc. d/b/a FFEC-Six to North Fort Myers Utility, Inc., holder of Certificate No. 247-S; amendment of Certificate No. 247-S; and cancellation of Certificate No. 309-S*, Order No. PSC-00-2349-PCO-WS.

2. Section 120.569(2)(i), Florida Statutes, provides that when official recognition is requested, the parties shall be notified and given an opportunity to examine and contest the material. Section 90.202(5), Florida Statutes, provides that official actions of the legislative,

executive, and judicial departments of the United States and of any state may be judicially noticed. The Commission's orders fall within the scope of Section 90.202(5). *See* Order No. PSC-00-2349-PCO-WS, *supra*. Section 90.203, Florida Statutes, provides that a court must take judicial notice of any matter in Section 90.202, Florida Statutes, when a party requests it and provides timely written notice and sufficient information. PACE's request satisfies the above requirements for official recognition. Therefore, the Commission should grant PACE's Motion for Official Recognition.

WHEREFORE the Florida Partnership for Affordable Competitive Energy respectfully requests that the Commission enter an order granting official recognition of Order No. PSC-99-2507-S-EU.



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Attorney for the Florida Partnership
for Affordable Competitive Energy

ATTACHMENT "A"

Order No. PSC-99-2507-S-EU

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Generic investigation
into the aggregate electric
utility reserve margins planned
for Peninsular Florida.

DOCKET NO. 981890-EU
ORDER NO. PSC-99-2507-S-EU
ISSUED: December 22, 1999

The following Commissioners participated in the disposition of this matter:

JOE GARCIA, Chairman
J. TERRY DEASON
SUSAN F. CLARK
E. LEON JACOBS, JR.

APPEARANCES:

JAMES D. BEASLEY and LEE WILLIS, Ausley & McMullen, Post Office Box 391, Tallahassee, Florida 32302, appearing on behalf of Tampa Electric Company.

JOSEPH A. MCGLOTHLIN, McWhirter, Reeves, McGlothlin, Davidson, Dekker, Kaufman, Arnold & Steen, 117 South Gadsden Street, Tallahassee, Florida 32301, appearing on behalf of Reliant Energy Power Generation.

VICKI GORDON KAUFMAN and JOHN MCWHIRTER, McWhirter, Reeves, McGlothlin, Davidson, Dekker, Kaufman, Arnold & Steen, 117 South Gadsden Street, Tallahassee, Florida 32301, appearing on behalf of the Florida Industrial Power Users Group.

GARY L. SASSO, Carlton, Fields, Ward, Emmanuel, Smith & Cutler, P.A., Post Office Box 2861, St. Petersburg, Florida 33731, appearing on behalf of Florida Power Corporation.

MATTHEW M. CHILDS, Steel, Hector & Davis, 215 South Monroe Street, Suite 601, Tallahassee, Florida 32301, appearing on behalf of Florida Power & Light Company.

DEBRA SWIM, Legal Environmental Assistance Foundation, 1115 North Gadsden Street Tallahassee, Florida 32301, appearing on behalf of Legal Environmental Assistance Foundation (LEAF).

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DOCKET NO. 981890-EU
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ROY YOUNG, Young, van Assenderp and Varnadoe, P. A., P. O. Box 1833, Tallahassee, Florida 32302-1833, appearing on behalf of the City of Lakeland and Kissimmee Utility Authority.

PAUL SEXTON, Thornton Williams & Associates, 215 South Monroe Street, Suite 600-A, Tallahassee, Florida 32301, appearing on behalf of the Florida Reliability Coordinating Council, Inc.

JON C. MOYLE, JR. Moyle, Flanigan, Katz, Kolins, Raymond & Sheehan, 210 South Monroe Street, Tallahassee, Florida 32301, appearing on behalf of PG&E Generating Company.

ROBERT SCHEFFEL WRIGHT, Landers & Parsons, 310 West College Avenue, Tallahassee, Florida 32302, appearing on behalf of Duke Energy New Smyrna Beach Power Company, Ltd., L.L.P.

FREDERICK M. BRYANT, General Counsel, Florida Municipal Power Agency, 2010 Delta Boulevard, Tallahassee, Florida 32315, appearing on behalf of Florida Municipal Power Agency.

THOMAS J. MAIDA, III, Foley & Lardner, Post Office Box 508, Tallahassee, Florida 32302, appearing on behalf of Seminole Electric Cooperative.

KENNETH A. HOFFMAN, Rutledge, Ecenia, Underwood, Purnell and Hoffman, P. O. Box 511, 215 South Monroe Street, Suite 420, Tallahassee, Florida 32302-0551, appearing on behalf of the City of Tallahassee.

MICHAEL B. WEDNER, Office of General Counsel, 117 West Duval Street, Suite 480, Jacksonville, Florida 32202, appearing on behalf of Jacksonville Electric Authority.

ROBERT V. ELIAS, GRACE JAYE and COCHRAN KEATING, FPSC Division of Legal Services, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, appearing on behalf of the Florida Public Service Commission Staff.

ORDER APPROVING STIPULATION

BY THE COMMISSION:

During our reviews of the Ten Year Site Plans filed in 1997 and 1998, we expressed concerns about the adequacy of the reserve margins planned for Peninsular Florida. At the December 15, 1998, Internal Affairs meeting, we directed staff to open this docket to consider the reserve margins planned for Peninsular Florida electric utilities.

By Order No. PSC-99-1274-PCO-EI, nineteen issues were identified for consideration in this proceeding. The investor-owned utilities, the cooperative utilities, several municipal utilities, the various intervenors, and Commission staff filed testimony concerning these issues. The hearing was scheduled for November 2nd and 3rd, 1999.

At the outset of the hearing, Florida Power & Light Company (FPL), Florida Power Corporation (FPC), and Tampa Electric Company (TECO), presented a proposal designed to settle the case; addressing what they believe are the Commission's major concerns. By the proposal, these three utilities stipulated to voluntarily adopting a twenty percent reserve margin planning criterion. Each of these three utilities would achieve the twenty percent level by the summer of 2004. Further, pursuant to the proposal, no decisions would be made concerning the specifically enumerated issues, and the docket would be closed. FPL, FPC, and TECO would be the only utilities adopting the twenty percent criteria.

Other parties argued in support of and against the proposal. The Florida Industrial Power Users Group (FIPUG) requested additional time to present a counter-proposal. The hearing was continued until November 30, 1999, and the parties were directed to attempt to reach a negotiated settlement. FIPUG offered a counter-proposal on November 17, 1999. No settlement was reached.

At the continued hearing, we considered both proposals. After discussion, FPL, FPC, and TECO agreed to further modifications to their proposal. A document incorporating these agreed-upon changes was filed on December 15, 1999. A copy of this document (hereinafter the "Stipulation") is included in this Order as Attachment A and is incorporated herein by reference. FPL, FPC, and TECO have each agreed to achieve a planned twenty percent reserve margin by the summer of 2004. In response to concerns

expressed by some of the other parties, each utility has agreed to make a good faith effort to notify the Commission if it opts to modify the twenty percent criterion. The three utilities signing the Stipulation further acknowledge in paragraph 9 at page 4 that

the Commission shall retain the ability and discretion to consider all facts and circumstances applicable to a given utility and/or peninsular Florida. Further, with respect to the evaluation of the adequacy of reserves in peninsular Florida, the Commission may employ any methodology and consider any facts and circumstances it deems appropriate, subject to applicable legal requirements.

We approve the Stipulation agreed to by Florida Power & Light Company, Florida Power Corporation, and Tampa Electric Company. It addresses the basic concern about the adequacy of planned reserve margins for Peninsular Florida. Collectively, these three utilities plan for approximately 80 percent of the Peninsular Florida load. Thus, a twenty percent planning criterion adopted by these three utilities is a significant increase over the fifteen percent criterion currently employed.

Further, we will convene a workshop to receive and consider information regarding how distributed resources, both demand and supply-side, may be used to meet Florida's energy service reliability needs. In addition, we will convene a workshop for the consideration of the appropriate relationship between the non-firm load of an individual utility and the total reserves required to maintain the utility's appropriate reserve margin.

Based on the foregoing, it is therefore

ORDERED by the Florida Public Service Commission that the Stipulation agreed to by Florida Power & Light Company, Florida Power Corporation, and Tampa Electric Company, which is included in this Order as Attachment A and is incorporated by reference herein, is approved. It is further

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ORDERED that this docket shall be closed.

By ORDER of the Florida Public Service Commission this 22nd
day of December, 1999.

/s/ Blanca S. Bayó

BLANCA S. BAYÓ, Director
Division of Records and Reporting

This is a facsimile copy. A signed
copy of the order may be obtained by
calling 1-850-413-6770.

(S E A L)

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NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

Any party adversely affected by the Commission's final action in this matter may request: 1) reconsideration of the decision by filing a motion for reconsideration with the Director, Division of Records and Reporting, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, within fifteen (15) days of the issuance of this order in the form prescribed by Rule 25-22.060, Florida Administrative Code; or 2) judicial review by the Florida Supreme Court in the case of an electric, gas or telephone utility or the First District Court of Appeal in the case of a water and/or wastewater utility by filing a notice of appeal with the Director, Division of Records and reporting and filing a copy of the notice of appeal and the filing fee with the appropriate court. This filing must be completed within thirty (30) days after the issuance

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of this order, pursuant to Rule 9.110, Florida Rules of Appellate Procedure. The notice of appeal must be in the form specified in Rule 9.900(a), Florida Rules of Appellate Procedure.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of Florida Partnership for Affordable Competitive Energy's Motion for Official Recognition was on this 25th day of September, served via (*) Hand delivery, (**) electronically and U.S. Mail to the following:

(*)(**)Martha Brown
Lawrence Harris
Florida Public Service Commission
Division of Legal Services
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850

(*)(**)Charles A. Guyton
Steel, Hector & Davis
215 S. Monroe Street
Tallahassee, Florida 32301

(**)Jon C. Moyle, Jr.
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118 North Gadsden Street
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Steel Hector & Davis LLP
200 S. Biscayne Blvd., Suite 4000
Miami, Florida 33131-2398

(**)D. Bruce May, Jr.
Karen D. Walker
Holland & Knight LLP
P.O. Drawer 810
Tallahassee, FL 32302


Joseph A. McGlothlin