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October 2, 2002

**VIA HAND DELIVERY**

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

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

Dear Ms. Bayo:

On behalf of The 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 Response to Florida Power & Light Company's Motion in Limine to Exclude New Testimony by Kenneth J. Slater

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

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**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: October 2, 2002

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**FLORIDA PARTNERSHIP FOR AFFORDABLE COMPETITIVE ENERGY'S  
RESPONSE TO FLORIDA POWER & LIGHT COMPANY'S  
MOTION IN LIMINE TO EXCLUDE NEW TESTIMONY BY KENNETH J. SLATER**

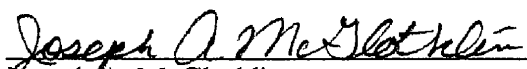
The Florida Partnership for Affordable Competitive Energy ("PACE"), through its undersigned counsel, responds to FPL's Motion in Limine to exclude additional testimony of PACE witness Kenneth J. Slater, filed September 30, 2002, and states:

1. The Motion in Limine filed by FPL contains excesses which range from the merely inaccurate, to the irrelevant, to the downright silly. Within the last category, FPL transforms an apparent miscommunication between counsel regarding the status (signed or unsigned) of the EGEAS sublicense agreement into a humorous and illogical charge that PACE's counsel adopted a "trial strategy" of withholding information from his own consultant. PACE will not spend the time necessary to address the frivolous aspects of the motion point by point, but states that the accusation that PACE plans a "trial by ambush" is as unfounded as the pleading is strident.

2. At the time of his deposition, Mr. Slater had not reviewed the disc containing confidential EGEAS information used during the supplemental RFP because the EGEAS instruction manual had been delayed in reaching him.

3. During the deposition, counsel for FPL asked Mr. Slater if he intended to modify or add to his prefiled testimony during the hearing. Mr. Slater was not in a position to indicate whether and/or to what extent the forthcoming review of the disc might affect his testimony. Once that review had been accomplished, counsel for PACE offered to make Mr. Slater available for an additional deposition. The deposition took place at 4:00 p.m., October 1, 2002.

4. FPL's motion should be denied. PACE has gone beyond requirements to accommodate FPL's request to depose Mr. Slater a second time. Further, as a matter of practice and routine, the Commission allows witnesses who have prefiled testimony to provide changes, corrections or additions to that testimony from the stand, or, where appropriate, to supplement that testimony. Mr. Slater should be provided the same latitude.

  
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Attorney for the Florida Partnership  
for Affordable Competitive Energy

**CERTIFICATE OF SERVICE**

**I HEREBY CERTIFY** that a true and correct copy of Florida Partnership for Affordable Competitive Energy's Response to Florida Power & Light Company's Motion to Exclude Testimony by Kenneth J. Slater was on this 2nd day of October, served via (\*) Hand delivery, (\*\*) electronically and U.S. Mail to the following:

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