

**BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

In Re: Florida Power & Light Company's ) Docket No. 040206-EU  
Petition for Determination of Need for Turkey )  
Point Unit 5 Electrical Power Plant Power ) Filed May 12, 2004.  
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**CORRECTED PRE-HEARING STATEMENT  
OF CALPINE ENERGY SERVICES, INC.**

Pursuant to Order No. PSC-04-0325-PCO-EI, Calpine Energy Services, Inc.

("Calpine") files its Corrected Prehearing Statement.

**A. APPEARANCES:**

Jon C. Moyle, Jr.  
Florida Bar No. 727016  
William H. Hollimon  
Florida Bar No. 104868  
Moyle, Flanigan, Katz, Raymond and Sheehan, P.A.  
The Perkins House  
118 North Gadsden Street  
Tallahassee, Florida 32301

**On behalf of Calpine Energy Services, Inc., Intervenor**

**B. WITNESSES:**

All witnesses listed by FPL (testimony filed and issues in dispute).

The following witnesses, who Calpine reserves the right to call at hearing and are all employed by FPL, are considered adverse:

Steve Scroggs ( FPL's process of conducting RFP, selection of Turkey Point Unit 5, etc.).

Raleigh Nobles, Joe Stepanovich, Ed Tammy (FPL's efforts to meet summer 2007 need by extending, negotiating or otherwise securing energy and capacity through purchase power contracts; meetings attended at which FPL's RFP and Turkey Point Unit 5 project discussed).

DOCUMENT NUMBER-DATE

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FPSC-COMMISSION CLERK

Contact persons for the 6-10 purchase power projects FPL considered to meet its 2007 summer need. This issue was recently expanded upon in discovery, and discovery is continuing. Names and contact information are in FPL's possession and will be sought by Calpine through informal or formal discovery.

These are the witnesses identified at this time who may be called. To the extent that other witnesses become known or available as discovery continues, the right to call additional witnesses is reserved.

**C. EXHIBITS:**

Documents produced during discovery  
Documents listed by other parties  
Documents introduced in depositions  
Documents to be used during cross-examination

**D. STATEMENT OF BASIC POSITION:**

The FPL self-build option, Turkey Point Unit 5, does not present the most cost effective alternative for the following reasons: The RFP was not conducted in a fair manner and thus violated the Commission's Bid Rule, 25-22.082, Florida Administrative Code; FPL's self-build cost of \$580 million dollars is not premised on firm numbers but estimates in some situations; in situations in which FPL relies on contracts for its cost figures, it refuses to make available to Calpine or its counsel those contracts, effectively defeating the ability for Calpine to conduct effective discovery related to the \$580 million cost that FPL argues makes Turkey Point Unit 5 the most cost effective alternative; this failure also undermines the Commission's ability to conclude that the Turkey Point Unit 5 is the most cost effective alternative available; Turkey Point Unit 5 is not needed in the summer of 2007, as more cost effective purchase power options, or combinations thereof, including the 6 to 10 purchase power options that FPL is said to have considered from existing resources prior to issuing its RFP, are available; Turkey Point Unit 5 is

not needed in summer of 2007, as a 20% reserve margin is not necessarily the reserve margin planning figure that should be used; FPL cannot meet its burden of proving its self-build options are the most cost effective alternatives when it has failed to enter into contracts for the major cost components of its self-build proposals or will not produce those contracts; FPL's self-build proposal does not meet reliability standards in that approximately 15% of FPL's generating capacity will be located at a single site, the Turkey Point Energy Complex.

**STATEMENTS OF FACT, LAW AND POLICY AT ISSUE**

**ISSUE 1:** Has Florida Power & Light Company met the requirements of Rule 25-22.082, Florida Administrative Code, "Selection of Generating Capacity"?

**Calpine:** No.

**ISSUE 2:** Is there a need for the proposed Turkey Point Unit 5, taking into account the need for electric system reliability and integrity, as this criterion is used in Section 403.519, Florida Statutes?

**Calpine:** No.

**ISSUE 3:** Is there a need for the proposed Turkey Point Unit 5, taking into account the need for adequate electricity at a reasonable cost, as this criterion is used in Section 403.519, Florida Statutes?

**Calpine:** No.

**ISSUE 4:** Are there any conservation measures taken by or reasonably available to Florida Power & Light Company which might mitigate the need for the proposed Turkey Point Unit 5?

**Calpine:** No position at this time.

**ISSUE 5:** Is the proposed Turkey Point Unit 5 the most cost-effective alternative available, as this criterion is used in Section 403.519, Florida Statutes?

**Calpine:** No.

**ISSUE 6:** Based on the resolution of the foregoing issues, should the Commission grant Florida Power & Light Company's petition to determine the need for the proposed Turkey Point Unit 5?

**Calpine:** No.

**ISSUE 7:** Should Florida Power & Light Company be required to annually report budgeted and actual expenses associated with the proposed Turkey Point Unit 5? If so, what categories of expenses should be identified?

**Calpine:** Yes.

**ISSUE 8:** What reserve margin should be used by FPL for its planning purposes?

**Calpine:** Evidence suggests that FPL effectively ran its system with a reserve margin lower than 20%.

**ISSUE 9:** Did FPL's RFP specify inappropriate criteria to be applied in the comparison of generating alternatives?

**Calpine:** Yes.

**ISSUE 10:** Did FPL's RFP contain terms that are unfair, onerous, commercially infeasible or unduly burdensome in violation of Rule 25-22.082(5) of the Bid Rule?

**Calpine:** Yes.

**ISSUE 11:** Did FPL properly evaluate security risks of locating an additional 1,144 MW (summer rating) and 1,181 MW (winter rating) of electric generating capacity power supply at Turkey Point?

**Calpine:** No.

**ISSUE 12:** Did FPL apply the criteria in its RFP fairly and correctly to its own self-build proposal as compared to proposals submitted, including the proposal submitted by Calpine?

**Calpine:** No.

**ISSUE 13:** Did FPL prejudice the comparison of alternatives, including Calpine's proposal, in favor of FPL's self-build option by imposing risks and costs on the respondents that were not similarly imposed on FPL's self-build option?

**Calpine:** Yes.

**ISSUE 14:** Did FPL fail to include all the costs of its Turkey Point Unit 5 in its RFP?

**Calpine:** Yes.

**ISSUE 15:** Did FPL prejudice the comparison of alternatives, including Calpine's proposal, in favor of FPL's self-build option by failing to include all the costs attributable to its self-build option?

**Calpine:** Yes.

**ISSUE 16:** Did FPL's proposal to construct, own, and operate 1,144 MW (summer rating) and 1,181 MW (winter rating) of additional capacity serve to cost-effectively manage the risks borne by ratepayers, relative to alternative resources that include more purchased power, including power purchased from Calpine?

**Calpine:** No.

**ISSUE 17:** Did FPL fail to comply with the terms of its RFP, and, if so, what action should the Commission take?

**Calpine:** No position at this time; discovery is continuing.

**ISSUE 18:** Will the costs FPL represents in its Petition and associated filings, \$580 million dollars, except for additional costs prudently incurred due to extraordinary circumstance, be used for all subsequent regulatory purposes?

**Calpine:** Yes.

**ISSUE 19:** Is FPL's method of grouping respondent proposals inappropriate and unfair?

**Calpine:** Yes.

**ISSUE 20:** Is FPL's use of an equity penalty or adjustment appropriate?

**Calpine:** No.

**ISSUE 21:** Has FPL established that the proposed Turkey Point Unit 5 is the most cost-effective alternative for meeting FPL's capacity needs?

**Calpine:** No.

**ISSUE 22:** Has FPL established its entitlement to an affirmative determination of the need for Turkey Point Unit 5?

**Calpine:** No.

**ISSUE 23:** What actions should the Commission take, if FPL's Petition for Need is ultimately granted, to ensure that the costs set forth by FPL in its petition are realized?

**Calpine:** Clearly set forth the amount that FPL will be allowed to place into its rate base for regulatory purposes.

**ISSUE 24:** Should this docket be closed?

**Calpine:** No.

**F. STIPULATED ISSUES:**

None at this time.

**G. PENDING MOTIONS:**

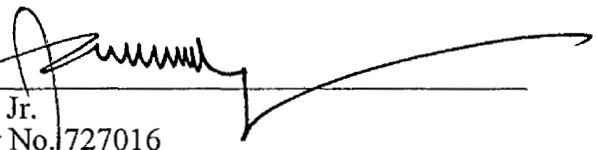
Motions have been filed by vendors, FPL, and other bidders seeking to protect certain information. Calpine anticipates opposing those motions and will be filing responses as provided by PSC rule. Calpine anticipates filing a motion to compel to seek FPL to produce information that it has refused to produce.

**H. RESERVATION OF RIGHT TO OBJECT TO EXPERT WITNESSES**

Calpine has served expert witness interrogatories on FPL and has not yet received responses to those interrogatories. FPL has failed to specifically and expressly identify its expert witnesses in pre-filed testimony. Thus, Calpine is unsure which witnesses, if any, FPL plans to tender as experts at trial. Thus, Calpine reserves its right to conduct *voir dire* and object to witnesses FPL may attempt to qualify as experts.

**I. OTHER MATTERS:**

Calpine has listed witnesses who are not under its control and, as employees of FPL, Calpine considers adverse. Thus, pre-filed testimony for these witnesses was not able to be filed. Calpine may call these witnesses at hearing and present direct examination as is authorized by section 120.57(1)(b).



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**CERTIFICATE OF SERVICE**

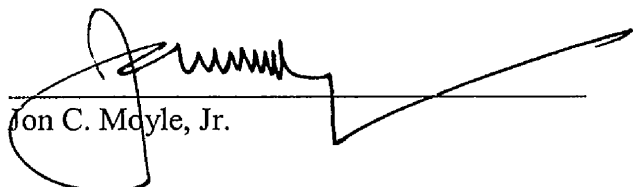
I **HEREBY CERTIFY** that a true and correct copy was served by hand-delivery this 12<sup>th</sup> day of **May, 2004**, on Jennifer Brubaker, Esq., Florida Public Service Commission, 2540 Shumard Oak Boulevard, Tallahassee, FL 32399-9850; Charles A. Guyton, Esq., Steel Hector & Davis, LLP, 215 South Monroe Street, Suite 601, Tallahassee, FL 32301, and Mr. Bill Walker and Ms. Lynne Adams, Florida Power & Light Company, 215 South Monroe Street, Suite 810, Tallahassee, Florida 32301-1859; and by U.S. Mail to the following persons:

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