

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition to Determine Need for Turkey Point Unit 5 Power Plant by Florida Power & Light Company.

Docket No. 040206-EI Dated: May 13, 2004

RECEIVED-PPSC MAY 13 PM 4: 54 COMMISSION CLERK

CALPINE ENERGY SERVICES, L.P.'S SUGGESTION OF MOOTNESS REGARDING FLORIDA POWER & LIGHT COMPANY'S FIRST REQUEST FOR PRODUCTION OF DOCUMENTS (NOS. 1 -20) and FIRST SET OF INTERROGATORIES (NO.s 1-50) FILED APRIL 23, 2004

Calpine Energy Services, L.P. ("Calpine"), hereby files its Suggestion of Mootness regarding Florida Power & Light's ("FPL") First Request for Production of Documents (No.s 1-20) and First Set of Interrogatories (No.s 1-50) filed April 23, 2004 ("FPL's Original Discovery"), and states:

FPL's Original Discovery contained errors related to the manner in which the pleadings were signed and served. Calpine identified these errors in its May 3, 2004 initial objections to FPL's Original Discovery. Subsequently, FPL corrected these errors and "re-served" its Original Discovery on May 4, 2004 ("FPL's Corrected Discovery").

Accordingly, Calpine has no obligation to respond to FPL's Original Discovery, as this discovery was superceded by FPL's Corrected Discovery, and all responses to this discovery are due based upon the date of service of FPL's Corrected Discovery, not upon the date of service of the Original Discovery. Otherwise, Calpine will be in the position of having to respond multiple times to the same discovery.

Alternatively, to the extent the Commission believes that some response is due to FPL's Original Discovery, Calpine hereby requests an extension of time for its response until the time for Calpine's response to FPL's Corrected Discovery is due.

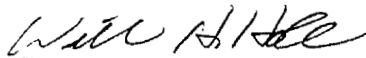
- CMP COM CTR ECR GCL OPC MMS RCA SCR SEC

RECEIVED & FILED 1 0h FPSC-BUREAU OF RECORDS

DOCUMENT NUMBER-DATE 05583 MAY 13 3 FPSC-COMMISSION CLERK

WHEREFORE, Calpine Energy Services, L.P., respectfully requests that the Commission confirm that Calpine owes no response to FPL's Original Discovery because this discovery is moot based upon FPL's filing of its Corrected Discovery on May 4, 2004, or alternatively, that the Commission grant Calpine's request for extension of time such that Calpine's Response to FPL's Original Discovery is due at the same time as Calpine's response to FPL's Corrected Discovery.

Respectfully submitted this 13<sup>th</sup> day of May, 2004.



---

JON C. MOYLE, JR.

Florida Bar No. 0727016

WILLIAM H. HOLLIMON

Florida Bar No. 0104868

Moyle, Flanigan, Katz, Raymond &  
Sheehan, P.A.

118 North Gadsden Street

Tallahassee, Florida 32301

Telephone: (850) 681-3828

Facsimile: (850) 681-8788

**Attorneys for Calpine Energy Services,  
L.P.**

**CERTIFICATE OF SERVICE**

**I HEREBY CERTIFY** that a true and correct copy was served by hand-delivery this 13th 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:

R. Wade Litchfield, Esquire  
Natalie F. Smith, Esquire  
Florida Power & Light Company  
700 Universe Boulevard  
Juno Beach, FL 22408-0420

Department of Community Affairs  
Paul Darst  
Strategic Planning  
2555 Shumard Oak Blvd.  
Tallahassee, Florida 32399-2100

Department of Environmental Protection  
Buck Oven  
Siting Coordination Office  
2600 Blairstone Road, MS 48  
Tallahassee, Florida 32301

Harold McLean  
Public Counsel  
Stephen C. Burgess  
Deputy Public Counsel  
Office of Public Counsel  
111 West Madison Street, Room 812  
Tallahassee Fl 32399-140



\_\_\_\_\_  
Jon C. Moyle, Jr.