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Public Service Commission

November 8, 2006

DN: 060426-EI

Patrice L. Simms
Susan Glickman
Natural Resources Defense Council
1200 New York Ave., NW
Washington, D.C. 20005

Re: NRDC, FCAN, and FPIRG Letter in Opposition to Florida Power & Light Company's Petition for Exemption from Rule 25-22.082, F.A.C.

Dear Ms. Simms and Ms. Glickman:

On October 13, 2006, the Commission received your letter of the same date in opposition to Florida Power & Light Company's ("FPL") petition for an exemption from the requirement of Rule 25-22.082, Florida Administrative Code, to issue a request for proposals for its proposed supercritical pulverized coal generating project. By your letter, you ask the Commission to reconsider its proposed agency action to grant FPL's petition, which proposed action is set forth in Order No. PSC-06-0079-PAA-EI, issued September 19, 2006 (the "PAA Order").

Pursuant to Rule 25-22.060, Florida Administrative Code, the Commission will not entertain a motion for reconsideration of a notice of proposed agency action. Hence, the Commission cannot accept your letter as a proper motion for reconsideration of the PAA Order.

Further, even if the Commission were to construe your letter as a petition for formal proceeding on FPL's petition, the Commission could not accept your letter as a proper petition for formal proceeding because it is untimely and does not meet the requirements of Rule 28-106.201, Florida Administrative Code. Consistent with Rule 28-106.111, Florida Administrative Code, the PAA Order contained a statement at page 6 providing notice of any administrative hearings or judicial review available, the procedure to be followed to obtain the hearing or judicial review, and the time limits that apply. This statement indicated that any person whose substantial interests are affected by the action proposed in the PAA Order could file a petition for a formal proceeding, in the form provided by Rule 28-106.201, and that such a petition must be received by the Commission Clerk's office by the close of business on October 10, 2006. Further, this statement provided that in the absence of such a petition, the PAA Order would become final and effective upon the issuance of a Consummating Order. Having received no timely petition for a formal proceeding on this matter (and prior to receipt of your letter), the Commission, on October 13, 2006, issued Consummating Order No. PSC-06-0854-CO-EI, making the PAA Order effective and final.

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In summary, pursuant to applicable law, the Commission considers this matter closed. As indicated in the PAA Order, the Commission has not relieved FPL from its burden to demonstrate in a future need determination proceeding that construction of the proposed supercritical pulverized coal generating project should be approved upon consideration of the factors set forth in Section 403.519, Florida Statutes, which includes consideration of whether the proposed plant is the most cost-effective alternative available.

Sincerely,



Wm. Cochran Keating IV
Senior Attorney

WCK

cc: Mr. Bill Newton, Florida Consumer Action Network
Mr. Brad Ashwell, Florida Public Interest Research Group
All Parties of Record
Division of the Commission Clerk and Administrative Services (Docket File)