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From: Sunda Parrett [Sparrett@yvlaw.net]  
Sent: Friday, December 07, 2007 2:18 PM  
To: Filings@psc.state.fl.us  
Subject: Docket #070650-EI

Attachments: OUC Petition to Intervene - 2007.12-07-07.doc



OUC Petition to  
Intervene - 20..

a. Person responsible for this electronic filing:

Roy C. Young  
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b. Docket No. 070650-EI

In Re: Petition to determine need for Turkey Point Nuclear Units 6 and 7 electrical power plant, by Florida Power & Light Company.

c. Document being filed on behalf of Orlando Utilities Commission.

d. There are a total of 7 pages.

e. The document attached for electronic filing is Orlando Utilities Commission's Petition to Intervene.

(see attached file: OUC Petition to Intervene - 2007.12-07-07)

Thank you for your attention and assistance in this matter.

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Secretary to Roy C. Young  
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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition to determine need for Turkey  
Point Nuclear Units 6 and 7 electrical power  
plant, by Florida Power & Light Company.

DOCKET NO. 070650-EI  
FILED: December 7, 2007

ORLANDO UTILITIES COMMISSION'S  
PETITION TO INTERVENE

Pursuant to Chapter 120, Florida Statutes, and Rules 25-22.039 and 28-106.205, Florida Administrative Code, the Orlando Utilities Commission, ("OUC"), through its undersigned counsel, files this Petition to Intervene and states as follows:

1. The name and address of the affected agency is:

The Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, Florida 32399-0850

2. The name and address of the Petitioner is:

Orlando Utilities Commission  
500 South Orange Avenue  
Orlando, FL 32801  
T: (407) 423-9135  
F: (407) 236-9616

3. Copies of all pleadings, notices, and orders in this docket should be provided to:

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DOCUMENT NUMBER-DATE

10765 DEC-7 07

FPSC-COMMISSION CLERK

4. OUC is a public agency and statutory commission existing under the laws of the State of Florida. OUC is responsible for the generation, transmission and distribution services to its customers within Orange and Osceola Counties, Florida. OUC received notice of the Commission's proposed action in this proceeding on October 22, 2007, through the Commission's posting of its Notice of Commencement of Proceeding for Determination of Need for Proposed Electrical Power Plant.

5. Statement of Affected Interests. OUC's interests will be affected by the Commission's determination in this proceeding. The Commission will decide in this docket whether it should approve Florida Power and Light Company's ("FPL's") petition for a determination of need for proposed nuclear power plants in Dade County, Florida. OUC generally supports FPL's need petition. However, FPL is required by statute and Commission rule to hold discussions with other electric utilities, and to include in its petition a summary of those discussions regarding the other electric utilities' ownership interest in the proposed nuclear plants. OUC is a public agency electric utility, in need of nuclear base load generation resources. OUC has been actively seeking minority ownership interest in nuclear base load facilities throughout Florida, specifically the proposed FPL nuclear power plants subject to the Commission's determination in this proceeding. While informal, preliminary discussions between FPL and OUC have occurred, those discussions must continue in a meaningful way. Therefore, OUC's substantial interests will be affected by this proceeding.

6. Statement of Disputed Issues of Material Fact. In its petition, FPL states,

FPL has held preliminary discussions regarding the potential for ownership participation with several Florida utilities that have expressed interest. As FPL proceeds through the licensing phase and begins dedicated commercial negotiations with the selected vendor, opportunities for partnership with Florida utilities will continue to be explored.

In re Petition to determine need for Turkey Point Nuclear Units 6 and 7 electrical power plant, by Florida Power & Light Company, Docket No 070650-EI, Petition, at 37 (F.P.S.C., Oct. 16, 2007).

At issue is whether FPL has held adequate and meaningful discussions with OUC regarding an ownership interest in the proposed nuclear power plants.

7. Statement of Ultimate Facts. Before certifying the need for the FPL plants, the Commission must ensure that FPL has presented sufficient facts to demonstrate that the required discussions with OUC have taken place regarding ownership interest in the proposed nuclear power plants. FPL's petition does not include a summary of such discussions.

8. Statutes and Rules that Require the Relief Requested by OUC. Statutes and rules that require the relief requested by OUC include, but are not limited to, Section 403.519, Florida Statutes, and Rules 25-22.081, 25-22.039, and 28-106.205, Florida Administrative Code.

9. Statement Explaining How the Alleged Facts Relate to the Specific Statutes or Rules Cited Above. Section 403.519, Florida Statutes, and Rule 25-22.081, F.A.C., respectively require an applicant seeking a determination of need for a nuclear power plant to include in its petition any information regarding discussions with other electric utilities and a summary of the discussions had with other electric utilities regarding ownership interests in a portion of the nuclear power plant. Rules 25-22.039 and 28-106.205 provide that persons whose substantial interests are subject to determination in, or may be affected through, an agency proceeding are entitled to intervene in such proceeding.

OUC has an increasing need for non-greenhouse gas emitting base load nuclear generation in Florida. This need has been recognized by the Florida Legislature in its most recent amendments to Section 403.519, Florida Statutes, which now require applicants such as

FPL to address, in the need petition, participation opportunities discussed with other electric utilities. By requiring applicants to include this information in their petitions, the Legislature has designed the need determination proceeding to, among other things, ensure that other electric utilities are afforded the opportunity to discuss ownership interest in a proposed nuclear power plant. Any other interpretation of this requirement would render the Legislature's recent addition to the statute meaningless. Therefore, the Commission must ensure that meaningful discussions with other electric utilities have in fact occurred before making an affirmative determination of need. Although OUC is encouraged by FPL's initial indications that it will invite municipal participation, OUC must, among other things, begin planning its financing and cost recovery operations. Therefore, OUC must be permitted to intervene and participate in this docket in order to protect its interests in this regard.

Accordingly, OUC's substantial interests are subject to determination in and will be affected by the Commission's decision, and OUC is entitled to intervene in this docket.

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WHEREFORE, OUC requests that the Commission enter an order granting its petition to intervene and further requests the parties to provide the undersigned with all papers filed in this docket.

Respectfully submitted this 7<sup>th</sup> day of December, 2007.

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**Attorneys for Orlando Utilities  
Commission**

**By: s/Zoila P. Easterling  
Zoila P. Easterling  
Associate General Counsel**

**CERTIFICATE OF SERVICE**

I **HEREBY CERTIFY** that a true and correct copy of the foregoing Petition to Intervene has been furnished by electronic mail and/or U.S. Mail this 7th day of December 2007 to the following:

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